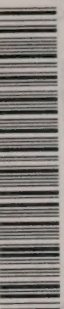


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NATIONAL ENERGY BOARD
OTTAWA, ONTARIO
KIA OE5

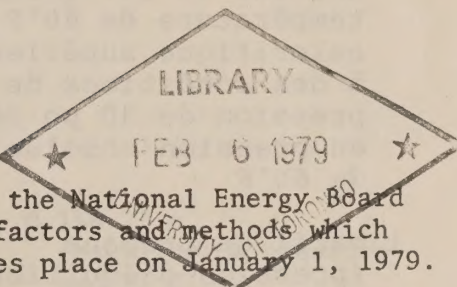


36
OFFICE NATIONAL DE L'ÉNERGIE
OTTAWA, ONTARIO
KIA OE5

Government
Publications

767
53
File No.: 150-3/J33
4 August 1978

Re: Metric Conversion



Further to its letter of February 1, 1978, the National Energy Board would like to advise you of some of the conversion factors and methods which will be used by the Board when conversion to SI takes place on January 1, 1979.

All natural gas licences are being converted to the nearest 100 m³, (one hundred cubic metres), with the Export Border price being rationalized to the nearest 0.001¢/GJ, (one thousandth of a cent per gigajoule). LPG Licences are being converted to the nearest m³, (cubic metre). Volumes specified in oil licences will be stated in m³ and those volumes applicable to existing long term heavy fuel oil licences will be rounded to the nearest m³. Refined Petroleum Product Licences for terms not exceeding one year are already in the process of being recalled to be replaced with licences showing both imperial and metric units. Henceforth, licences with expiry dates running into 1979 will bear both volumetric units.

It is planned to convert natural gas transmission rates to the nearest 0.001¢/m³, while the average heat content of the gas for rate design purposes would be set to the nearest 0.001 MJ/m³, (one thousandth of a megajoule per cubic metre), giving a natural gas transmission rate to the nearest 0.001¢/GJ. Oil transmission rates would be rationalized to the nearest 0.01¢/m³ when converting to SI. Maximum allowable operating pressures for both oil and gas pipelines will be converted to kPa (kilopascals) and rounded to the nearest 10 kPa.

A summary of some of the SI conversion factors is attached. Further information regarding metric changes will be issued when the National Energy Board Act, the Petroleum Administration Act, and, their related regulations are finalized. Any questions regarding the above should be directed to Ross C. Richards of the National Energy Board at 613-996-2028 in Ottawa.

Yours truly,

Brian H. Whittle
Secretary

Attach.

Quelques facteurs de conversion utilisés par l'ONE

1 pied cube de gaz naturel (pression absolue de 14.73 lb/po ² et température de 60°F)	= 0.028 327 84 mètre cube (101.325 kilopascals et 15° celsius)
1 Btu 60/61	= 1 054,615 Joules
1 x 10 ⁶ Btu pour un volume équivalent de gaz naturel soumis à une pression absolue de 14.73 lb/po ² et à une température de 60°F, son pouvoir calorifique supérieur étant mesuré à des conditions de saturation, à une pression de 30 po de Hg (14.7347 lb/po ² en pression absolue) et à une température de 60°F	= 1.072 927 GJ pour un gaz sec
1 baril de propane (pression d'équilibre et 60°F)	= 0.158 73 m ³ (pression d'équilibre et 15°C)
1 baril de butane (pression d'équilibre et 60°F)	= 0.158 81 m ³ (pression d'équilibre et 15°C)
1 lb/po ²	= 6.894 757 kPa

Dans le cas des volumes de pétrole, les facteurs de conversion de l'API correspondant à un changement de température de 60°F à 15°C (59 degrés F) sont:

<u>Densité API</u>	<u>Facteur de correction des volumes</u>
0 - 6	0.999 7
7 - 35	0.999 6
36 - 51	0.999 5
52 - 64	0.999 4
65 - 78	0.999 3
79 - 91	0.999 2
92 - 99	0.999 1

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Summary of N.E.B. Conversion Factors

1 cubic foot of natural gas (14.73 psia and 60°F)	=	0.028 327 84 cubic metres (101.325 kilopascals and 15°C)
1 Btu 60/61	=	1 054.615 Joules
1 MMBtu equivalent volume of natural gas at reference conditions of 14.73 psia and 60°F with gross heating value measured at saturated conditions at a pressure of 30" of Hg (14.7347 psia) and of a temperature of 60°F	=	1.072 927 GJ on a dry basis
1 barrel of propane (equilibrium pressure and 60°F)	=	0.158 73 m ³ (equilibrium pressure and 15°C)
1 barrel of butane (equilibrium pressure and 60°F)	=	0.158 81 m ³ (equilibrium pressure and 15°C)
1 barrel of ethane (equilibrium pressure and 60°F)	=	0.157 976 m ³ (equilibrium pressure and 15°C)
1 psi	=	6.894 757 kPa

For conversion of volumes of oil, the API Conversion Factors
for a change in temperature from 60°F to 15°C (59°F) are:

<u>API Gravity</u>	<u>Volume Correction Factor</u>
0 - 6	0.999 7
7 - 35	0.999 6
36 - 51	0.999 5
52 - 64	0.999 4
65 - 78	0.999 3
79 - 91	0.999 2
92 - 99	0.999 1



La référence: 150-3/J33

Le 4 août 1978

Objet: Conversion au système métrique

Comme suite à sa lettre du 1^{er} février 1978, l'Office national de l'énergie désire vous renseigner sur quelques-uns des facteurs et méthodes de conversion qu'il utilisera lorsque le Système international d'unités (SI) entrera en vigueur le 1^{er} janvier 1979.

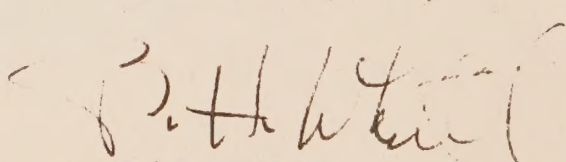
Dans toutes les licences de gaz naturel, les volumes sont convertis en mètres cubes, au 100 m³ le plus près (cent mètres cubes) et le prix d'exportation à la frontière à 0.001 cent/GJ près (un millième de cent par gigajoule). Les licences de GPL exprimeront les volumes en m³ (mètre cube), à un m³ près. Dans les licences de pétrole, les volumes seront indiqués en mètres cubes et, dans les licences en vigueur autorisant des ventes de fuel oil lourd à long terme, ils seront arrondis au mètre cube le plus proche. Déjà, on rappelle des licences de produits pétroliers raffinés qui ont été délivrées pour des périodes ne dépassant pas un an, afin de les remplacer par des licences qui indiquent les unités impériales et métriques à la fois. Désormais, les licences dont les dates d'expiration se situent en 1979 porteront les deux unités volumétriques.

On prévoit de convertir les taux de transport du gaz naturel à 0.001 cent/mètres cube près; l'enthalpie (énergie calorifique par unité de volume) du gaz, établie aux fins de la tarification, serait exprimée en MJ/m³ et arrondie au 0.001 MJ/m³ (un millième de mégajoule par mètre cube) le plus proche, ce qui donne un taux de transport du gaz naturel calculé à 0.001 cent/GJ près. Les taux de transport du pétrole seraient arrondis au 0.001 cent/mètre cube une fois convertis au système métrique. Quant aux pressions maximales admissibles de fonctionnement des oléoducs et des gazoducs, elles seront converties en kPa (kilopascals) et arrondies au 10 kPa le plus proche.

On trouvera sur la feuille ci-jointe un bref aperçu des facteurs de conversion au système métrique. D'autres renseignements au sujet de la conversion au système métrique vous seront communiqués dès que la Loi sur l'Office national de l'énergie, la Loi sur l'administration du pétrole et les règlements d'application seront prêts. Si vous avez des questions à ce sujet, veuillez vous adresser à Ross C. Richards, de l'Office national de l'énergie, 613-996-2028, à Ottawa.

Veuillez agréer l'expression de mes sentiments distingués.

Le Secrétaire,



Brian H. Whittle

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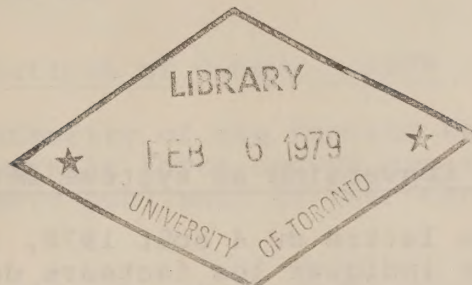
NATIONAL ENERGY BOARD
OTTAWA, ONTARIO
K1A 0E5



OFFICE NATIONAL DE L'ÉNERGIE
OTTAWA, ONTARIO
K1A 0E5

File No.: 150-3/J33

18 December 1978



Re: Metric Conversion

Further to its letter of August 4, 1978, the National Energy Board would like to advise you of the conversion factors that should be used in reporting natural gas in SI when measurement has taken place after January 1, 1979 using equipment calibrated in Imperial units.

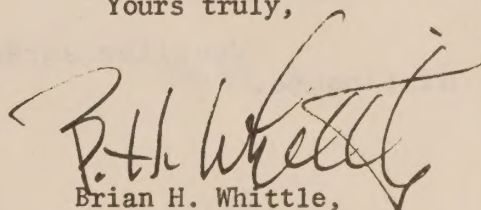
Natural gas volumes shall be reported on a dry basis (moisture content of less than 110 mg/m^3), in cubic metres at standard reference conditions of 15°C and 101.325 kPa . If measurement continues to be made in cubic feet at 14.73 psia and 60°F , then a conversion factor of $1 \text{ cubic foot} = 0.028 327 84 \text{ cubic metres}$ should be used.

Natural gas heat quantities shall be reported in joules at standard reference conditions of 15°C and 101.325 kPa and corrected to zero moisture content. When measurement is made in accordance with the Gas Inspection Act at a reference pressure of 30 inches of mercury, then for measurement purposes this shall be taken to be equivalent to 14.73 psia . The appropriate conversion factor for converting from a reference pressure of 14.73 psia and a temperature of 60°F to standard conditions of 101.325 kPa at 15°C and zero moisture content will be:

$$1 \text{ Btu}_{60/61} \text{ per cu ft} = 0.037 887 67 \text{ MJ/m}^3$$

Any questions regarding the above should be directed to Ross C. Richards of the National Energy Board at 613-996-2028 in Ottawa.

Yours truly,


Brian H. Whittle,
Secretary



Dossier no. 150/3/J33

18 décembre 1978

Objet: Conversion au système métrique

Suite à sa lettre du 4 août 1978, l'Office national de l'énergie désire vous indiquer les facteurs de conversion qui doivent être utilisés pour déclarer en unités SI les quantités de gaz naturel qui, après le 1^{er} janvier 1979, auront été mesurées à l'aide d'instruments étalonnés en unités impériales.

Les volumes de gaz naturel devront être déclarés pour du gaz sec (teneur en vapeur d'eau de moins de 110 mg/m³) en mètres cubes à des conditions standard de 15°C et 101.325 kPa. Si l'on continue à prendre les mesures en pieds cubes à 14.73 lb/po² (pression manométrique) et 60°F, il faudra alors utiliser le facteur de conversion suivant: 1 pied cube = 0.028 327 84 mètre cube.

Le pouvoir calorifique du gaz naturel doit être déclaré en joules aux conditions standard de 15°C et 101.325 kPa et redressé en fonction d'une teneur nulle en vapeur d'eau. Quand les mesures sont faites conformément à la Loi sur l'inspection du gaz à une pression de référence de 30 pouces de mercure, il faut considérer cette valeur comme l'équivalent d'une pression manométrique de 14.73 lb/po² aux fins des mesures. Pour passer des conditions de référence de 14.73 lb/po² (pression manométrique) à 60°F, aux conditions standard de 101.325 kPa à 15°C pour une teneur en vapeur d'eau de zéro, il faudra utiliser le facteur suivant:

$$1 \text{ Btu}_{60/61} \text{ par pi}^3 = 0.037 \ 887 \ 67 \text{ MJ/m}^3$$

Veuillez adresser toutes vos questions à ce sujet à M. Ross C. Richards de l'Office national de l'énergie au (613) 996-2028 (Ottawa).

Veuillez agréer l'assurance de ma considération distinguée.

Le Secrétaire


Brian H. Whittle

NATIONAL ENERGY BOARD

OTTAWA, ONTARIO
KIA OE5

OFFICE NATIONAL DE L'ÉNERGIE

OTTAWA, ONTARIO
KIA OE5

File No.: D132-1

28 January 1980

Distribution List

Consolidated Regulations of Canada - 1978

Under authority of the Statute Revision Act all regulations that were in force and of general application as of 31 December 1977 were published as the "Consolidated Regulations of Canada 1978".

Listed below are those regulations issued under the authority of the National Energy Board Act, and those of the Petroleum Administration Act which are administered by the Board. They are to be found in Volumes XI and XIII of the new Consolidation.

<u>Volume XI</u>	<u>Price per copy/set</u>
Gas Pipeline Regulations Chapter 1052 28 pages	\$2.00
Gas Pipeline Uniform Accounting Regulations Chapter 1053 96 pages	\$4.00
International Power Line Regulations Chapter 1054 1 page	\$.50
NEB Order No. MO-62-69 Chapter 1055 1 page	\$.50
NEB Part VI Regulations Chapter 1056 18 pages	\$2.00
NEB Rules of Practice and Procedure Chapter 1057 14 pages	\$1.50
Oil Pipeline Uniform Accounting Regulations Chapter 1058 69 pages	\$3.50
Pipeline Companies Records Preservation Chapter 1059 1 page	\$.50
Pipeline Overhead Crossing Order Chapter 1060 3 pages	\$.50

dans la Codification. L'ordre de ces règlements et autres instruments correspond à celui de la Codification. En voici la liste.

<u>La Gazette du Canada 1978</u> <u>Numéro Spécial</u>	<u>Prix de l'exemplaire/de l'ensemble</u>
Volume I - DORS/78-173 page 310	\$.50
Volume II - DORS/78-667 page 1081, 1082, 1083, 1084, 1095, 1086, 1087	\$1.00
Volume II - DORS/78-845 page 1286	\$.50
Volume II - DORS/78-926 pages 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404,	\$1.00
Volume II - DORS/78-846 page 1287	\$.50
Volume I - DORS/78-71 pages 201, 202	\$.50
Volume I DORS/78-198 page 330	\$.50
Volume I - DORS/78-345 page 549	\$.50
Volume II - DORS/78-585 page 937	\$.50
Volume II - DORS/78-617 page 1003	\$.50
Volume I - DORS/78-174 page 311	\$.50

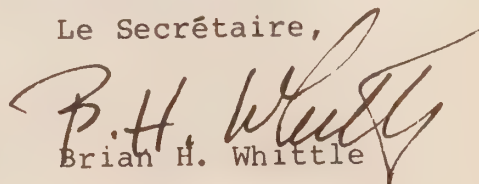
On peut se procurer des exemplaires de tous les règlements ou instruments mentionnés ci-dessus en écrivant à l'adresse suivante:

Centre d'édition du gouvernement du Canada
Bureau 1430
45, boul. Sacré-Coeur
Hull (Québec)
K1A 0S9

A l'attention de M. Paradis

Cordialement vôtre,

Le Secrétaire,


Brian H. Whittle

<u>Volume XIII</u>	<u>Price per copy/set</u>
Exemption from Charges (Crude Oil Exchange) Order Chapter 1256 1 page	\$.50
Exemption from Charges (Experimental Purposes) Order Chapter 1257 1 page	\$. 50
Lime Island Order Chapter 1258 1 page	\$. 50
Natural Gas Prices Regulations Chapter 1259 6 pages	\$1.00
P.A.A. Part I Regulations Chapter 1260 4 pages	\$.50
P.A.A. Part III Regulations Chapter 1261 4 pages	\$.50

It should be noted that the content of the above regulations/orders has not changed, but in some cases the numbering of various sections has. For example, in the old NEB Part VI Regulations, the subject of the price of natural gas being exported fell under Section 11A, whereas in the Part VI Regulations published in the new Consolidation this subject is under Section 14.

A Special Issue of Part II of the Canada Gazette (Volume I and Volume II) has been published for the purpose of assisting in updating the "Consolidated Regulations of Canada 1978". The material contained in this Special Issue is essentially a re-publication of regulations and other instruments published in 1978 that amend or revoke regulations found in the Consolidation. These regulations and other instruments will correspond to the correct section number or subdivision of the relevant regulation in the Consolidation. A list of these follows.

<u>The Canada Gazette Part II 1978 - Special Issue</u>	<u>Price per copy/set</u>
Volume I - SOR/78-173 page 310	\$.50
Volume II - SOR/78-667 pages 1081, 1082, 1083, 1084, 1085, 1086, 1087	\$1.00
Volume II - SOR/78-845 page 1286	\$.50

Règlement sur la conservation des dossiers des compagnies de pipe-lines \$.50
Chapitre 1059 1 page

Ordonnance sur le croisement de pipelines par des lignes aériennes \$.50
Chapitre 1060 3 pages

<u>Volume XIII</u>	<u>Prix de l'exemplaire/de l'ensemble</u>
Décret d'exemption des redevances (échanges de pétrole brut) Chapitre 1256 1 page	\$.50
Décret d'exemption des redevances d'exportation (pétrole pour fins expérimentales) Chapitre 1257 1 page	\$.50
Décret de Lime Island Chapitre 1258 1 page	\$.50
Règlement sur les prix du gaz naturel Chapitre 1259 6 pages	\$1.00
Règlement de la Partie I de la Loi sur l'administration du pétrole Chapitre 1260 4 pages	\$.50
Règlement de la Partie III de la Loi sur l'Administration du pétrole Chapitre 1261 4 pages	\$.50

Il est à noter que le contenu des règlements et ordonnances mentionnés ci-dessus n'a pas changé mais que, dans certains cas, il y a eu changement dans la numération des divers articles. Par exemple, dans l'ancienne Partie VI des règlements sur l'Office national de l'énergie, la question du prix du gaz naturel exporté est traitée à l'article 11(a) tandis que dans la Partie VI des règlements de la nouvelle codification, c'est l'article 14 qui en fait mention.

Un numéro spécial de la Partie II de la Gazette du Canada (Volume I et Volume II) a été publié pour faciliter la mise à jour de la "Codification des règlements du Canada 1978". Le contenu de ce numéro spécial est essentiellement une nouvelle publication des règlements et des autres instruments publiés en 1978 pour modifier ou révoquer les règlements qui se trouvent

The Canada Gazette Part II
1978 - Special Issue

Price per copy/set

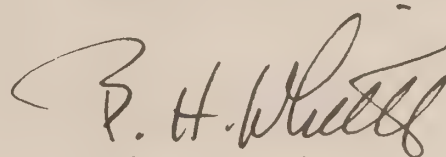
Volume II - SOR/78-926	pages 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404,	\$1.00
Volume II - SOR/78-846	page 1287	\$.50
Volume I - SOR/78-71	pages 201, 202	\$.50
Volume I - SOR/78-198	page 330	\$.50
Volume I - SOR/78-345	page 549	\$.50
Volume II - SOR/78-585	page 937	\$.50
Volume II - SOR/78-617	page 1003	\$.50
Volume I - SOR/78-174	page 311	\$.50

Copies of any of the above regulations/instruments may
be obtained by writing to:

Canadian Government Publishing Centre
Room 1430
45 Sacré Coeur Boulevard
Hull, Québec
K1A 0S9

Attention: Mr. Paradis

Yours truly,



Brian H. Whittle,
Secretary.

NATIONAL ENERGY BOARD

OTTAWA, ONTARIO
KIA OE5

OFFICE NATIONAL DE L'ÉNERGIE

OTTAWA, ONTARIO
KIA OE5

Dossier No.: D132-1

28 janvier 1980

Liste de diffusion

Codification des règlements du Canada - 1978

En vertu de la Loi sur la révision des lois, tous les règlements qui étaient en vigueur, ou généralement observés, au 31 décembre 1977 ont été publiés sous le titre "Codification des règlements du Canada - 1978".

On a dressé, ci-après, la liste des règlements émis sous l'empire de la Loi sur l'Office national de l'énergie, et de ceux de la Loi sur l'administration du pétrole dont l'Office a la responsabilité administrative. Ils se trouvent aux Volumes XI et XIII de la nouvelle Codification.

<u>Volume XI</u>	<u>Prix de l'exemplaire/de l'ensemble</u>
Règlement sur les gazoducs Chapitre 1052 28 pages	\$2.00
Règlement de normalisation de la comptabilité des gazoducs Chapitre 1053 96 pages	\$4.00
Règlement sur les lignes internationales de transmission de force motrice Chapitre 1054 1 page	\$.50
Ordonnance No. MO-62-79 de l'Office national de l'énergie Chapitre 1055 1 page	\$.50
Règlement sur l'Office national de l'énergie (Partie VI) Chapitre 1056 18 pages	\$2.00
Règles de Pratique et de Procédure de l'Office national de l'énergie Chapitre 1057 14 pages	\$1.50
Règlement de normalisation de la comptabilité des oléoducs Chapitre 1058 69 pages	\$3.50

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NATIONAL ENERGY BOARD
OTTAWA, ONTARIO
K1A 0E5



OFFICE NATIONAL DE L'ÉNERGIE
OTTAWA, ONTARIO
K1A 0E5
File: D150-3/J33
D150-3/M2

29 January 1982

Re: Metric Conversion

During 1978 the National Energy Board advised you of some of the conversion factors and methods which would be used by the Board after conversion took place on January 1, 1979.

Since that time, the American Petroleum Institute (API) and the U.S. Bureau of Standards funded a joint venture with the American Society for Testing and Materials (ASTM) and the Institute of Petroleum (IP) - London to produce a new standard API/ASTM-IP 2540 (First edition, August 1980) for petroleum measurement. These new procedures are intended to supersede all previous editions (ANSI/ASTM, D1250, IP200 and API Standard 2540).

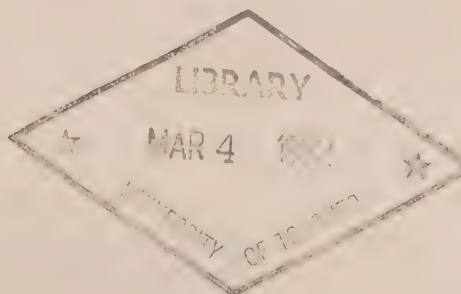
The problems that have arisen in Canada in adopting the new standard for custody transfer involve the degree of precision that should be used in the computer routines and in the tables which can be produced from the procedures for the convenience of the user.

After consulting with Metric Sector 4.03 (Petroleum Refineries, Wholesalers and Gasoline Service Stations) concerning custody transfer of crude oil and petroleum products, the National Energy Board has decided to adopt the following procedures:

All temperature measurement will be rounded to the nearest 0.5°C , and all density measurement will be rounded to 1 kg/m^3 in accordance with the procedures outlined in API Standard 2540. All resultant correction factors will be rounded to four decimal places. The generalized crude oil correction procedures will be used for all crude oils. The generalized products procedures will be used for all refined petroleum products except lube oils which will be corrected using the individual and special applications procedures.

However, in regard to volumes involved in transactions where conversions from Imperial standard temperature of 60°F to SI standard temperature of 15°C are being applied, then if both parties agree, the simple volumetric conversion factor of $0.158\,987\,3 \text{ m}^3/\text{bbl}$ will be used along with the following volume correction factors:

... 2



<u>API Gravity Range</u>		<u>Volume Change Reciprocal</u>	
<u>Crudes</u>	<u>Products</u>	<u>60° to 59°F</u>	
0.0 - 11.5	0.0 - 2.5	0.9997	
12.0 - 30.5	3.0 - 31.5	0.9996	
31.0 - 48.0	32.0 - 48.5	0.9995	
48.5 - 63.5	49.0 - 53.5	0.9994	
64.0 - 78.0	54.0 - 72.0	0.9993	
78.5 - 91.5	72.5 - 85.0	0.9992	
92.0 - 100.0		0.9991	

<u>Relative Density Range</u>		<u>Volume Change Reciprocal</u>	
<u>Crudes</u>	<u>Products</u>	<u>60° to 59°F</u>	
0.610 - 0.634		0.9991	
0.636 - 0.674	0.654 - 0.694	0.9992	
0.676 - 0.724	0.696 - 0.762	0.9993	
0.726 - 0.788	0.764 - 0.784	0.9994	
0.790 - 0.870	0.786 - 0.866	0.9995	
0.872 - 0.988	0.868 - 1.054	0.9996	
0.990 - 1.076	1.056 - 1.076	0.9997	

Any questions regarding the above should be directed to Ross C. Richards of the National Energy Board at 613-996-2028 in Ottawa.

Yours truly,

K. J. MacDonald
 for G. Yorke Slader,
 Secretary.

NATIONAL ENERGY BOARD
OTTAWA, K1A 0E5



OFFICE NATIONAL DE L'ÉNERGIE
OTTAWA, K1A 0E5

CA1
MT-78
-N 53-

File: D132-7

21 June 1982

TO ALL ADDRESSEES ON THE BOARD'S ELECTRIC POWER MAILING LIST

RE: PROPOSED AMENDMENT TO THE NATIONAL ENERGY BOARD
PART VI REGULATIONS

Section 7(1), "Export of Power by Order", of the National Energy Board Part VI Regulations allows the Board to authorize exports of up to 4 MW and 20 GW.h per year by order without a public hearing. Such exports are normally required for border accommodations where the U.S. customer lacks ready access to service from a U.S. public utility.

To provide for border accommodations commensurate with today's increased level of electricity consumption, the Board proposes to recommend to the Governor in Council that the maximum limits for export by order be increased to 50 MW and 250 GW.h per year. The wording in the Part VI Regulations would then be as follows:

"7.(1) The Board may, by order, authorize the exportation of not more than 50 000 kilowatts of electric power and not more than 250 million kilowatt hours per year of electric energy for a term not exceeding three years upon such terms and conditions as the Board may prescribe."

Legislation to allow the Board to exempt international power lines below 50 kV from Sections 40 and 43 of the NEB (requirements for certification through the public hearing process) is currently before Parliament in Clause 15 of Bill C-108. That legislation and this proposed amendment to the Regulations would give the Board increased flexibility to deal with applications for border accommodation exports.

If you wish to submit comments on the proposed change to Section 7(1) of the Part VI Regulations, please have them in our hands by Monday, 19 July 1982. To expedite delivery, you are encouraged to use telecopier ((613)992-0129), telex (053 3791), or courier.

Yours truly,

G. Yorke Slader,
Secretary.

Encl.



NATIONAL ENERGY BOARD
OTTAWA, K1A 0E5

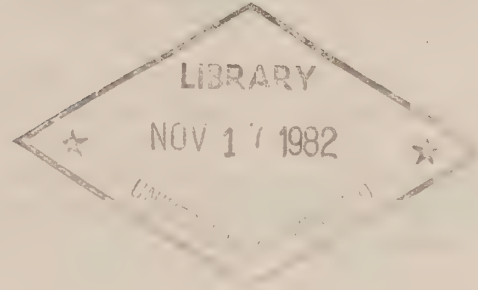


OFFICE NATIONAL DE L'ÉNERGIE
OTTAWA, K1A 0E5

File No.: D1539-4

4 November 1982

Lawson, Lundell, Lawson and McIntosh,
2800-650 West Georgia Street,
Vancouver, British Columbia
V6B 4R7



Attention: Brian J. Wallace

Dear Sir:

Re: Arctic Pilot Project

By application dated 9 September 1982 made pursuant to subsection 17(1) of the National Energy Board Act, Arctic Pilot Project ("APP") has requested that the Board review and, upon review, rescind, change, alter or vary its decision of 31 August 1982 adjourning the Arctic Pilot Project hearing. The Board, in a letter dated 16 September 1982, requested APP to provide, in writing, a full elaboration of the grounds which APP submits justify a review of this decision and invited interested parties to submit comments with a right of reply to APP. The Board stated that it will then determine if a review of the decision is required.

The Board has considered written submissions from APP dated 23 September 1982 and 14 October 1982, le Procureur général du Québec dated 30 September 1982, la Corporation de promotion industrielle de la région de Rivière-du-Loup Inc. and la Municipalité régionale du comté de Rivière-du-Loup, jointly, dated 30 September 1982, the Province of Nova Scotia dated 3 October 1982, Inuit Tapirisat of Canada and Baffin Region Inuit Association, jointly, undated but received by the Board on 4 October 1982, the Labrador Inuit Association dated 4 October 1982, the Minister of Energy, Province of Ontario, dated 6 October 1982, General Dynamics dated 7 October 1982, and Tennessee Gas Pipeline Company dated 8 October 1982.

The Board has also received a letter from the Canadian Petroleum Association, dated 28 September 1982, advising that it had nothing to add to the views expressed on behalf of the Association on 23-24 August 1982. Gaz Inter-Cité Québec Inc. and the Government of the Northwest Territories advised, by correspondence dated 4 October 1982 and 22 October 1982 respectively, that they had no position with respect to the matter.

... 2

The Board is of the opinion that a review of its decision of 31 August 1982 adjourning the Arctic Pilot Project hearing is not required. The application for review has not raised any new facts, changed circumstances, or facts which were not considered at the time the decision was taken and the Board is not persuaded that there is a doubt as to the correctness of the decision.

As stated in the Board's decision of 31 August 1982:
"The Board appreciates APP's desire to maintain the momentum of the hearing and is prepared to proceed with it as expeditiously as possible, keeping in mind the need to give parties reasonable notice, as soon as the uncertainty surrounding the project is removed."

Yours truly,

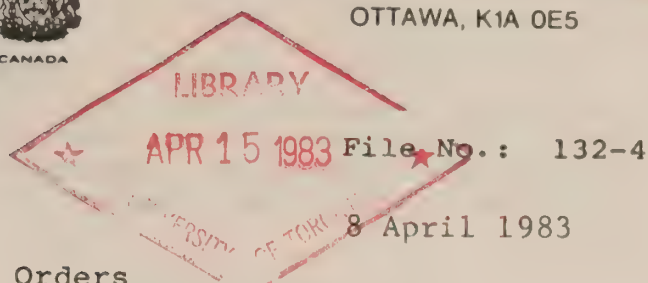
A handwritten signature in dark ink, appearing to read "G. Yorke Slader", written in a cursive style.

G. Yorke Slader,
Secretary.

c.c. TransCanada PipeLines Limited
Interested Parties



E/AT
ME 26
- N 53



To: Applicants for Short-term Orders
to Export Natural Gas

Memorandum of Guidance

In Phase I - The Review Phase of the Gas Export Omnibus Hearing, 1982, the Board indicated its intention to recommend to the Governor in Council that the National Energy Board Part VI Regulations be amended to permit the authorization of exports, by order, of limited quantities of natural gas on a short-term basis without necessarily holding a public hearing.

On 18 November 1982, the Regulations were amended to permit the Board to issue orders, upon such terms and conditions as it might prescribe to authorize the export of natural gas subject to the limitation that the total quantity of gas exported under all orders so authorized should not be more than 3 billion cubic metres in any 12-month period commencing on 1 November. In addition, the maximum term for any such order would not exceed 24 months commencing on 1 November of any year.

This memorandum sets out the basic information required by the Board for applications under subsection 8(2) of the Regulations.

Each application shall contain the name of the exporter; the name of the importer; the duration of the proposed exports; the maximum daily quantities proposed to be exported; the seasonal (winter and summer) quantities proposed to be exported; the total quantities proposed to be exported; the selling price; the export point; a general description of the facilities to be used and the market to be served; and all relevant sales and transportation contracts or agreements. The Board also requires applicants to file an estimate of the net revenue to be generated by the proposed sale at the border crossing point of the producing province. An applicant should indicate any grounds it might have for asserting that the quantities proposed to be exported are surplus to Canadian requirements and that the proposed export would be in the public interest.

... 2

If the natural gas to be exported is not part of a gas supply contract previously filed with the Board and not covered by an existing provincial removal permit, then new contracts and permits shall be filed. Furthermore, evidence should be filed that pipeline transmission capacity is available to move the gas to market.

Any applicant wishing to rely upon material filed with the Board in previous proceedings must identify the documents or portions thereof.

Applicants for short-term natural gas export orders must file 25 copies of their applications with the Secretary of the Board. The Board may require the filing of such other information as it considers necessary for the disposition of the applications.

Yours truly,

A handwritten signature in dark ink, appearing to read "G. Yorke Slader", written in a cursive style.

G. Yorke Slader,
Secretary



CA1

MT 76

-N 53

File No.: 1525-D2-1

30 May 1983

MEMORANDUM OF GUIDANCE

To: APPLICANT AND ALL INTERESTED PARTIES:
Re: Western LNG Project - LNG Facilities Hearing
Order No. GH-1-83

The Board has reviewed the Notice of Motion dated 13 May 1983 filed on behalf of the Canadian Petroleum Association ("the Association") requesting an adjournment of the aforementioned Hearing, the letter dated 19 May 1983 filed by counsel on behalf of Dome Petroleum Limited ("Dome") requesting an adjournment "until on or about Tuesday, October 4th, 1983", and the letter dated 26 May 1983 filed by counsel on behalf of the Association, requesting leave to withdraw its Notice of Motion and requesting that the Board hold a pre-hearing conference on Tuesday, 13 September 1983.

The Board hereby adjourns the commencement of the Hearing until Monday, 17 October 1983 at locations and times to be announced. The Board will also hold a pre-hearing conference, if necessary, to consider Notices of Motion relating to the sufficiency or completeness of the materials filed by Dome as of 6 September 1983. The Board will convene such a pre-hearing conference, in Ottawa, on Wednesday, 14 September 1983 if so requested by the Applicant or any intervenor by Thursday, 8 September 1983. Parties will be notified on Friday, 9 September 1983 whether a pre-hearing conference will take place.

The Board grants this adjournment and makes provision for the pre-hearing conference on the understanding that the additional materials to be filed by Dome will be in the possession of all interested parties on or before Tuesday, 6 September 1983.

The Board hereby grants the Association leave to withdraw its Notice of Motion.

G. Yorke Slader,
Secretary



CA1

MT 76

= N53

14 October 1983

File No.: 1071-3

To: Interested Parties

Re: NEB Update of Energy Supply and Demand, 1983 to 2005

From time to time, the National Energy Board publishes reports outlining the prospects for the supply of and demand for major forms of energy in Canada. The latest of these reports was completed in June, 1981 following a public inquiry into the subject.

The Board does not intend to hold another public inquiry at this time. However, in light of the significant changes that have taken place in domestic and international energy markets in the last two years, an update of the 1981 projections appears desirable. The Board has therefore decided to have its staff conduct an update and produce a report thereon. In order to expedite and simplify the process, the Board concluded that rather than initiating time-consuming public hearings, it would be preferable in the circumstances for the views of interested parties to be submitted directly to NEB staff to provide a foundation for its update of the energy supply and demand outlook.

This letter is being sent to request your participation in the update. Since we plan to complete the study and publish a staff report by early summer of 1984, we are requesting that your written submission be provided no later than 16 January 1984. You are encouraged to contact Board staff at any time during the update process for further clarification, guidance or discussion. Your submission will be reviewed by Board staff and discussed as required with you early in 1984.

Preparing a reliable long-term energy forecast at this time is particularly difficult: it is unclear when and to what extent the major industrial economies will emerge from the deepest recession of the post-war period; there is considerable uncertainty with respect to the prospective path of world oil prices; and, because adaptation to the enormous energy price increases of the 1970s is still going on, it is far from clear to what extent the recently-observed decline in demand for energy is related to the decline in economic activity, to the price

Canada

increases of the 1970s or to other factors. Accordingly we think it appropriate to attempt to undertake an assessment of the uncertainties associated with the outlook for energy supply and demand. Specifically, we seek your analysis and informed opinion regarding:

1. the most plausible outlook for energy supply and demand in Canada to the year 2005;
2. the effect on your forecast of alternative energy price and economic growth assumptions; and
3. certain issues which the Board staff believes have particular importance in shaping supply and demand estimates in today's environment.

A detailed outline of the issues as we see them and our proposed methods of conducting the study are contained in the attached guidelines. Your written submission and subsequent exchange of views will assist Board staff in examining these complex matters.

All submissions will be considered public documents and will be available for review in the library of the National Energy Board, 473 Albert Street, Ottawa, and at the Board's Calgary office, 4500-16 Avenue N.W. Submitters are not required to serve copies of their submission on other parties but are requested to provide 20 copies to Board staff via the Office of the Secretary. In the case of technical material pertaining to petroleum supply, 5 copies will suffice. We would appreciate an early indication of your intention to participate in this update.

Yours truly,



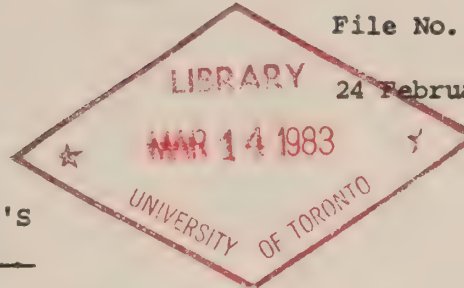
G. Yorke Slader,
Secretary



CA1
MT 76
-N 53

File No. 1923-1

24 February 1983



TO ALL ADDRESSEES ON THE BOARD'S
ELECTRIC POWER MAILING LIST

Re: Information Requirements for
Electrical Applications

The Board proposes to amend the lists of information required with applications for electrical certificates and licences, and invites you to comment on the attached drafts.

The information currently required with an application for a certificate to authorize the construction and operation of an international power line is listed in Part III of the Schedule to the NEB Rules of Practice and Procedure. Annex I attached to this letter is a proposed new version.

The information required with an application for a licence to export electricity is listed in Section 6 of the NEB Part VI Regulations. Annex II is the proposed replacement.

The primary purpose of the amendments is to eliminate requirements for information which is no longer necessary and to request other data. In addition, the information is arranged in a more appropriate sequence and a requirement has been added for a summary of the application.

The Board would point out that the NEB Rules of Practice and Procedure (Section 5(2)) and the Part VI Regulations (Section 6(2)) state that the information set forth shall be provided unless otherwise authorized by the Board. It is, therefore, open to an applicant to seek relief from the requirement of filing all the information in those instances where it is deemed unnecessary or inappropriate or where the information can be provided in another form.

If you wish to submit comments on the attached drafts, please have them in our hands by Friday 29 April 1983.

Yours truly,

G. Yorke Slader
Secretary

Atts.

EXISTING

PROPOSED

PART III

*Information required to be Filed by
Applicant for Certificate in Respect of
International Power Line*

Unchanged

new

1. A concise statement of facts, which shall include, in addition to those items referred to under Section 4 of the National Energy Board Rules of Practice and Procedure, the following:
 - (i) a brief description of the applicant
 - (ii) a brief description of the applicant's power system including major generating stations, the transmission system, major interconnections to other Canadian utilities, and all certified international power lines;
2. A map showing all terminal points, the route, the international crossing, and the distance in kilometres from the international boundary crossover point to each terminal point, of
 - (i) the international power line
 - (ii) the power line outside Canada which at the crossover point is connected to the international power line;
3. unchanged
 - (1) A map showing all terminal points, the route, the international crossing, and the distance in miles from the international boundary crossover point to each terminal point, of
 - (i) the international power line, and
 - (ii) the power line outside Canada which at the crossover point is connected to the international power line;
 - (2) A description from which the international boundary crossover point can be accurately determined on the ground;

(3) The designation of each of the electrical transmission circuits which together comprise the international power lines;

(4) The name and address of the owner of the power line outside Canada which at the crossover point is connected to the international power line;

(5) The name and address of the person operating

- (i) the international power line, and
- (ii) the power line outside Canada which at the crossover point is connected to the international power line;

(6) A brief engineering description of the one or more circuits, of the terminal facilities at each point of power connection thereto, of the power throughout design capabilities of each circuit and of each set of terminal facilities for sustained power transfers, in respect of

- (i) the international power line, and
- (ii) the power line outside Canada which at the crossover point is connected to the international power line;

4. The operating designation of each of the electrical transmission circuits which together comprise the international power line;

5. The name and address of the owner of the international power line in Canada and of the owner of the power line outside Canada which at the crossover point is connected to the international power line;

6. unchanged

7. A brief engineering description, a schematic single line diagram and the maximum design capability for sustained transmission of power, specifying the basis for the stated capability, of the one or more circuits and of the terminal facilities at each point of power connection thereto, in respect of

- (i) the international power line
- (ii) the power line outside Canada which at the cross over point is connected to the international power line;

(7) The capital cost, by major accounts, of the international power line constructed or to be constructed, including the terminal facilities;

(8) A copy of all power contracts under which the international power line will deliver power for exportation and if applicable receive power for importation at the international boundary crossover point;

(9) Evidence to demonstrate the economic feasibility of the international power line;

(10) The financial responsibility and financial structure of the applicant, the methods of financing the line and a description of the Canadian Content of the proposed international power line; and

(11) An assessment of the probable environmental impact of the international power line, including a description of the existing environment and a statement of the measures proposed to mitigate the impact.

8. The estimated capital cost of the international power line and terminal facilities, stating assumptions used in deriving costs, broken down as follows:

- (i) property
- (ii) materials (major items or classes of equipment to be listed separately)
- (iii) labour if not combined with above
- (iv) other (costs included to be specified)

and the estimated capital cost of the power line outside Canada, including terminal facilities, in a similar format;

9. A copy of all related interconnection agreements and any agreements dealing with the construction of the new facilities;

10. Evidence to demonstrate

- (i) the need for the international power line
- (ii) the economic justification for its construction;

11. A brief description of

- (i) the method of financing the new facilities
- (ii) the estimated Canadian content of the proposed facilities;

12. An assessment of the probable environmental impact of the international power line, following the National Energy Board's "Guidelines on the Environmental Information required for Certification of International Power Lines";

new

13. A listing of the authorizations or approvals required at the federal, provincial or local levels respecting the proposed international power line, and the status of the process of obtaining these approvals;

new

14. A description of the status of the process of obtaining government approvals for the power line outside Canada which is to be connected to the international power line

REGULATIONS MADE PURSUANT
TO PART VI OF THE NATIONAL
ENERGY BOARD ACT

*Information to be Furnished by Applicants
for Licence to Export Power*

6. (1) Every applicant for a licence for the exportation of power shall furnish to the Board such information as the Board may require.

new

no change

6(1) no change

6(2) The concise statement of facts required by Section 4 of the National Energy Board Rules of Practice and Procedure shall include

- (i) the name and a brief description of the applicant,
- (ii) a brief description of the applicant's power system, including power supply, load and interconnections,
- (iii) a list of existing licences giving limits and terms of each,
- (iv) a brief description of each of the proposed exports, specifying requested power and energy limits;

(2) Without restricting the generality of subsection (1), the information required to be furnished by any applicant described in subsection (1) shall, unless otherwise authorized by the Board, include

6(3) Without restricting the generality of subsection 6(1), the information furnished by any applicant for a licence for the exportation of power shall, unless otherwise authorized by the Board, include

(a) a description of the geographic extent and nature of the Canadian markets served by the applicant

(a) A description of the geographic extent and nature of the Canadian markets served by the applicant

- (i) from the export power grid, and
- (ii) from any other system operated by the applicant comprising at least
- (iii) a map of the areas in Canada served by the applicant,

- (i) from the export power grid, and,
- (ii) from any other system operated by the applicant, comprising at least,
- (iii) a map showing the areas in Canada served by the applicant, including major generating stations, the transmission system, major interconnections to other Canadian systems, and all international power lines over which the applicant proposes to export or import power;

(iv) a general description of the communities or areas served by the applicant,

(v) the number of residential customers and the number of commercial customers served by the applicant in the latest year of record,

(vi) the types of major industry served by the applicant, the power and energy requirements and number of customers for each type for the latest year of record, and details of known future industrial expansion, and

(vii) other market information considered pertinent by the applicant;

(iv) a copy of the applicant's latest annual report,

(v) other market information considered pertinent by the applicant;

(j) the name, location, type, nameplate capacity in kilowatts, and first year of service of existing and currently authorized generating stations serving the export power grid of the applicant;

(b) a tabulation showing the name, location, type, nameplate capacity in kilowatts, and first year of service of existing and currently authorized generating stations serving the export power grid and any other major systems operated by the applicant;

(n) a brief but explicit description, for the period for which the licence is sought, of the overall plan by which the applicant proposes to obtain additional supplies of electric power, including necessary reserves, for the export power grid for the serving of anticipated load growth that can be economically served in Canada by the applicant;

(c) a brief but explicit description, covering the period from the date of the application to the end of the proposed licence term, of the overall plan by which the applicant proposes to obtain additional supplies of electric power, including necessary reserves for the export power grid for serving anticipated load growth that can be economically served in Canada by the applicant, and to construct the additional transmission facilities required to supply the domestic load and to facilitate its proposed export;

(k) a tabulation showing for each generating station connected to the export power grid, taking into account the joint operation of generating stations where applicable, for the period for which the licence is sought, the following information:

- (i) its maximum net electric power generating capacity,
- (ii) its net electric power generating capability at the time of the annual peak load on the export power grid,
- (iii) its annual net dependable energy generating capability, and
- (iv) its median or average annual net energy generating capability, as limited by river flow conditions or other factors;

(t) the geographic extent and nature of the market to be served outside Canada by the proposed exportation of electric power and energy, referred to in this paragraph as the "export market", comprising, in the case of an export sale transfer,

- (i) a map illustrating the export market area and the areas served by adjacent foreign electrical utilities,
- (ii) a general description of the communities or areas to be served wholly or partially by the proposed exportation of electric power and energy,

(d) a tabulation showing, for each existing, authorized or planned generating station serving the export power grid, the following information, covering the period to the end of the proposed licence term

- (i) energy source or fuel used,
- (ii) its maximum net power generating capability,
- (iii) its net power generating capability at the time of the annual peak load on the export power grid,
- (iv) its net annual dependable energy generating capability,
- (v) its net annual median or average energy generating capability, as limited by river flow conditions, scheduled and forced outages, availability, or other factors,
- (vi) in the case of a hydroelectric plant the live storage of the reservoir expressed in electrical units;

(e) a description of the geographic extent and nature of the market outside Canada for the proposed exportation of power and energy, hereinafter referred to as the "export market", including

- (i) a map illustrating the export market area and the areas served by adjacent foreign electric utilities,
- (ii) a general description of the communities or areas to be served wholly or partially by the proposed exportation,

(iii) details of residential and commercial consumption in the export market and the number of customers included in the residential and commercial classes served in the latest year of record,

(iv) the types of major industry to be served wholly or partially in the export market, the power and energy requirements of each type for the latest year of record and details of known future industrial expansion,

(viii) other export market information considered pertinent by the applicant;

(iii) other export market information considered pertinent by the applicant;

(f) a statement setting forth the period of time for which the licence is sought;

(h) a statement setting forth the class or classes of inter-utility transfers proposed to be made;

(f) a statement setting out, for each part of the application, and for each type and class of inter-utility transfer

- (i) the reason for, and the circumstances of, each transfer,
- (ii) the power and energy limits, where applicable, and a justification for the proposed limits,
- (iii) the proposed licence term, and the reason for the proposed term;

(i) in the case of an export sale transfer, a statement setting forth

- (i) the estimated maximum firm power export for each year in the period for which the licence is sought,
- (ii) the estimated maximum combined firm and interruptible power exports for each year in the period for which the licence is sought,
- (iii) the estimated maximum daily, monthly and annual quantities of firm energy exports for each year in the period for which the licence is sought,

(g) in the case of an export sale transfer, a tabulation, covering the proposed licence term, showing

- (i) the estimated maximum firm power exports for each year,
- (ii) the estimated maximum combined firm and interruptible power exports for each year,
- (iii) the estimated maximum annual quantity of firm energy export for each year,

(iv) the estimated quantities of interruptible energy export for each year in the period for which the licence is sought, and

(v) information respecting the import sale transfers corresponding to the information required by subparagraphs (i) to (iv), if the system arrangements permit the import of power into Canada, and, in the case of an exchange, storage, adjustment or carrier transfer, a description of the circumstances and a statement of the annual quantities of electric energy for exportation and for importation of each type of transfer for the period for which the licence is sought;

New

(1) a copy of each bulk power purchase, interconnection or interchange agreement supplying the export power grid;

- (iv) the estimated maximum combined firm and interruptible energy exports for each year,
- (v) for an exchange, storage, adjustment or carrier transfer, or circulating power flow, a description of the circumstances and a statement of the annual quantities of energy for exportation and for importation for each type of transfer for the proposed licence term,
- (vi) information respecting any import sale transfers corresponding to the information required by subparagraphs (i) to (iv);

(h) a tabulation of the bulk power sales by contract, interconnection or interchange agreement covering the proposed exportation of power, indicating which of the proposed exports are covered by each contractual arrangement;

- (i) a tabulation of the bulk power sales and purchases by contract, interconnection or interchange agreements, other than those covered by paragraph 6(3)(h), between the applicant and
 - (i) electric power utilities in Canada,
 - (ii) electric power utilities in the United States of America,
 - (iii) industrial customers who supply more than 20 MW of firm power to the applicant's system,

(m) a tabulation for each firm power purchase contract showing, for each year in the period for which the licence is sought,

- (i) the maximum firm power purchase,
- (ii) the firm power available at the time of the annual peak load on the export power grid, and
- (iii) the annual energy purchase;

new

(iv) the type and class of inter-utility transfers as provided for by each contract,

new

(v) the annual firm power purchase and sale as provided for by each contract, during the proposed licence term,

new

(vi) the firm power purchase and sale at the time of the annual peak load on the export power grid as provided for by each contract, during the proposed licence term,

new

(vii) the annual firm energy purchase and sale as provided for by each contract, during the proposed licence term;

(q) for the last five years of record and for the period for which the licence is sought, the estimated annual firm peak load to be supplied in Canada from the export power grid, giving details of the split in the firm peak load between the classes of consumption described in subparagraph (r) (i) and the utilities described in subparagraph (r) (ii), in each case including a reasonable apportionment of any allowance for losses;

and which are not otherwise included in the applicant's supply and domestic load forecasts, showing

(j) a tabulation, covering the last five years of record and continuing to the end of the proposed licence term, showing the actual/estimated annual firm peak load supplied or to be supplied from the export power grid broken down as follows:

- (i) domestic load, including sales to distributing utilities which do not generate electricity,
- (ii) sales under all contracts listed in paragraphs (h) and (i) above, except where included in subparagraph (i),
- (iii) losses to the extent not covered in the above,

- (iv) if the export sale transfer is a diversity sale, the applicant shall provide summer as well as winter peak loads,

If all or part of this information is provided in the applicant's official load forecast report, it may be submitted in that form;

(r) for the last five years of record and for the period for which the licence is sought, the estimated annual electric energy supplied or to be supplied to users in Canada from the export power grid, by

- (i) sales to consumers, including distributing electrical utilities that do not generate their own power requirements, classified by
 - (A) domestic consumption,
 - (B) commercial consumption,
 - (C) industrial firm consumption, and
 - (D) industrial interruptible consumption,
- (ii) sales under existing contracts to electrical utilities other than those described in subparagraph (i), classified by firm and interruptible energy, and
- (iii) transmission and distribution annual losses to the extent not included under subparagraphs (i) and (ii);

- (k) a tabulation, covering the last five years of record and continuing to the end of the proposed licence term, showing the actual/estimated annual energy requirements supplied or to be supplied from the export power grid, broken down as follows:

- (i) domestic load, including sales to distributing utilities which do not generate electricity,
- (ii) sales under all contracts listed in paragraphs (h) and (i) except where included in subparagraph (i), divided into firm and interruptible energy,
- (iii) transmission and distribution energy losses to the extent not covered in the above

If all or part of this information is provided in the applicant's official load forecast report, it may be submitted in that form;

(l) In a separate appendix, a copy of each contract, interconnection or exchange agreement listed in paragraphs 6(3)(h) and 6(3)(i);

(m) An explanation of the methodology underlying the forecasts called for in paragraphs 6(3)(j) and 6(3)(k);

(n) tabulations showing, for the export power grid, for each month in the first two years of the proposed licence term, and for the month in which the annual peak is forecast to occur in each of the remaining years

- (i) the net dependable capacity of the applicant's generation, reconcilable with subparagraph 6(3)(d)(iii),
- (ii) contracted firm capacity purchases,
- (iii) the forecast peak domestic load, - consistent with paragraph 6(3)k.
- (iv) contracted firm capacity purchases,
- (v) the required generation capacity reserve,
- (vi) the resulting capacity surplus,
- (vii) capacity reduction, included in subparagraph (i), due to scheduled maintenance,
- (viii) if the export sale transfer is a diversity sale, summer peak data for subparagraphs (i) to (vii) for the third to final year of the proposed licence term,

and for the same months with annual totals for the first two years, and annually for the balance of the proposed licence term

(ix) the net dependable energy supply capability of the applicant's generation, reconcilable with subparagraph 6(3)(d)(iii),

(v) tabulations showing for the applicant's integrated system for each month in each year in the period for which the licence is sought,

- (i) the net dependable power supply capacity,
- (ii) the forecast monthly peak demand,
- (iii) the required generating capacity reserve, and
- (iv) the resulting power surplus, and for the same months, but including annual totals,
- (v) the net dependable energy supply capability,
- (vi) the forecast energy load requirement, and
- (viii) the resulting energy surplus;

- (x) contracted firm energy purchases,
- (xi) the forecast domestic energy requirements, - consistent with paragraph 6(3)(1)
- (xii) contracted firm energy sales,
- (xiii) the resulting energy surplus,
- (xiv) reduction in energy generating capability, including that outlined in subparagraph (ix), due to scheduled maintenance,
- (xv) duration curves of applicant's net system energy generation on monthly or annual basis, as appropriate, when available energy may vary significantly due to rainfall, etc.;

(u) any additional evidence necessary to demonstrate that the electric power and energy proposed to be exported are surplus to foreseeable Canadian requirements for use in Canada that the applicant might reasonably supply for every month in the period for which the licence is sought;

- (o) a brief description of the criteria used in determining
 - (i) generating capacity reserve
 - (ii) capacity reductions due to scheduled maintenance;

- (p) any additional evidence which the applicant considers would demonstrate that the power and energy proposed to be exported are surplus to foreseeable Canadian requirements that the applicant might reasonably supply throughout the proposed licence term. This evidence may include letters from Canadian utilities in response to offers by the applicant of power and energy under similar terms and conditions as the proposed export;

(v) tabulations showing for the interconnected system outside Canada serving the export market, for each year in the period for which the licence is sought,

- (q) tabulations showing, for the interconnected system outside Canada serving the export market, for each year of the proposed licence terms
 - (i) the net dependable power supply capacity, including purchased power
 - (ii) the forecast peak demand,
 - (iii) the required capacity reserves,

- (A) the net dependable power supply capacity,
 - (B) the forecast peak demand,
 - (C) the required generating capacity reserve,
 - (D) the resulting power surplus,
 - (E) the net dependable energy supply capacity,
 - (F) the forecast energy load requirement, and
 - (G) the resulting energy surplus,
- (vi) details of alternative sources of power and energy available to the export market from outside Canada, identifying generating stations and system interconnections,
- (vii) known planned expansion or construction of the facilities described in subparagraph (vi), and

- (z) evidence to demonstrate that the price to be charged by the applicant for electric power and energy exported by him is just and reasonable in relation to the public interest, and in particular that the export price
- (i) would recover its appropriate share of the costs incurred in Canada,
 - (ii) would not be less than the price to Canadians for equivalent service in related areas, and
 - (iii) would not result in prices in the country to which the power is exported being materially less than the least cost alternative for power and energy at the same location within that country; and

- (iv) the resulting power surplus,
- (v) the net dependable energy supply capacity, including purchased energy,
- (vi) the forecast energy requirement,
- (vii) the resulting energy surplus;

- (viii) details of alternative sources of power and energy available to this export market from outside Canada, with scheduled completion dates of expansion or construction of the alternative;

- (r) evidence to demonstrate that the price to be charged for the power and energy proposed for export is just and reasonable in relation to the public interest, and, in particular, that the export price

- (i) would recover its appropriate share of the costs incurred in Canada
- (ii) would not be less than the price in Canada for equivalent service in accessible related areas, and
- (iii) would not result in a delivered price in the market to which the power and energy is exported being materially less than the least cost alternative for power and energy at the same location. The cost data relative to alternative sources referred to subparagraph 6(3)(g)(viii) shall be used to establish that this test is satisfied.

new

- (s) Evidence to demonstrate the economic justification of the proposed export sale;

(a) maps showing all the international power lines over which the applicant proposes to export or import power;

deleted: see A(iii)

(b) a list of the international power lines referred to in paragraph (a) setting forth in respect of each line

- (i) the number of the certificate issued by the Board,
- (ii) the applicant's designation of each circuit,
- (iii) the power throughput design capability of each circuit, and
- (iv) the name of the owner of the power line outside Canada that at the crossover point is connected to the international power line;

- (t) a list of the international power lines over which the applicant proposes to export or import power, setting forth for each line
- (i) the number of the certificate issued by the Board,
 - (ii) the operating designation of each circuit,
 - (iii) the maximum operating power transfer rating of each circuit, specifying the basis for this limit,
 - (iv) the total simultaneous power transfer capacity under normal operating conditions,
 - (v) a description of the operating criteria used to ensure safe levels of power transfer on the export power grid, and
 - (vi) evidence that the proposed levels of exports can be accommodated within the criteria;

(c) a schematic diagram of the applicant's power system, showing the impedances of all major components;

deleted

(d) a schematic load flow diagram of the applicant's power system showing computed conditions at the times of the expected annual peak load and annual minimum load on the export power grid during the first year and the fifth or last year of the term for which the licence is sought, including at least the following information:

- (i) the electric power and reactive flows in all main generating and transmission facilities,
- (ii) the voltage on all main busses, and
- (iii) the operating angles at all main busses, relative to a stated base;

(u) schematic load flow diagrams of the Applicant's power system showing computed conditions during the first year and the earlier of the fifth or the last year of the term for which the licence is sought

- (i) power and reactive flows in all main generating and transmission facilities,
- (ii) voltage on all main busses,
- (iii) the operating angle of all main busses, relative to a stated base,

at the times of the expected annual domestic peak load, with the maximum proposed firm export; if a diversity sale is proposed schematic load flow diagrams should also be provided to show system conditions for the summer combined peak of domestic load, and firm and diversity exports,

(e) a schematic load flow diagram, similar to that referred to in paragraph (d), showing equivalent information, applicable to the pertinent portion of the power grid outside Canada that is interconnected with the applicant's system;

(v) schematic load flow diagrams, coincident with those referred to in paragraph 6(3)(t), showing corresponding information, and applicable to the pertinent portion of the power grid outside Canada that is interconnected with the Applicant's system;

(g) evidence that the applicant has obtained any licence, permit or other form of approval required under any law of Canada or a province respecting the electric power proposed to be exported;

(w) evidence that the applicant has obtained all licences, permits or other forms of approval required by any law of Canada, or a province respecting the power proposed to be exported, except as covered by this application;

new

(x) a description of the status of the process of obtaining approvals relating to the importation, into the country to which it is proposed to export, of the power and energy covered by this application;

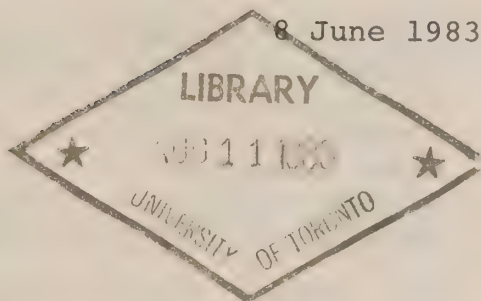
(aa) evidence on any environmental impact that would result from the generation of the power for export.

(y) evidence on any environmental impact that would result from the generation of the power and energy for export;



File No.: G134-1

8 June 1983



CA1
MT 76
-N 53

To All Pipeline Companies
Under the Board's Jurisdiction

Dear Sir:

Re: Applications Pursuant to Sections 44 and
49 of the NEB Act

The Board has completed its review of the procedures for applications filed under Section 44 and Section 49 of the National Energy Board Act with the view of standardizing and clarifying the information requirements.

The Board intends to dispense with the guidelines set out in the Memorandum of Guidance issued 12 December 1963 and the concept of Class A, B, and C types of pipeline construction. The only distinction between the types of applications will be based on the criteria set out in Sections 44 and 49 of the Act.

With respect to applications pursuant to Section 44 of the Act, the Board proposes to amend Parts I and II of the Schedule to the Rules of Practice and Procedure, for gas and oil pipelines, respectively, to reflect current application practices.

With respect to applications pursuant to Section 49 of the Act, the Board has prepared two new Parts, VIII and IX, of the Schedule to the Rules of Practice and Procedure, for gas and oil pipelines, respectively, which identify the information required to be filed by an applicant.

A new Part X of the Rules of Practice and Procedure has also been prepared to reflect right-of-way information required to be filed by an applicant for applications pursuant to both Sections 44 and 49 of the Act.

The Board's present thinking is that paragraph 1(b) of Part X would allow an applicant for certification of a pipeline to show a corridor as well as the proposed route. The Board is seeking to clarify what all parties would understand by such a corridor. For each line section, the applicant would, of course, be expected to show the extent of the proposed corridor and where within it he would anticipate locating the pipeline.

The Board plans to implement the following changes with respect to applications pursuant to Section 49:

- The required annual calendar year approval and the 31 March deadline for applications previously identified as Class "C" will be discontinued. Although an Applicant may submit an application at any time, companies are encouraged to minimize the number of applications by grouping projects into one application where possible.
- The approval for a project authorized under Section 49 will lapse if construction has not commenced within a period to be specified in the Board order. Except in unusual circumstances, the period specified will be one year following the commencement date for construction as identified in the application.

The Board is presently preparing revised Construction Cost and Toll Information Regulations pursuant to Section 88 of the Act. It is intended that these revised regulations will replace the Memorandum of Guidance issued 21 October 1966 and the Toll Information Regulations which came into effect on 9 April 1979. When ready, they will be issued for comments by interested parties.

In summary, attached are the following amended and new Parts to the Rules of Practice and Procedure:

Part I

Information Required to be Filed by an Applicant for a Certificate Pursuant to Section 44 of the Act, in Respect of a Gas Pipeline

Part II

Information Required to be Filed by an Applicant for a Certificate Pursuant to Section 44 of the Act, in Respect of an Oil Pipeline

Part VIII

Information Required to be Filed by an Applicant for an Order Pursuant to Section 49 of the Act, in Respect of a Gas Pipeline

Part IX

Information Required to be Filed by an Applicant for an Order Pursuant to Section 49 of the Act, in Respect of an Oil Pipeline

Part X

Information Required to be Filed by an Applicant for a Certificate or an Order Pursuant to Section 44 and 49 of the Act, in Respect of Right-of-Way.

Also attached is a single sheet headed "Schedule", setting out the changes which will be needed in Section 5 of the Rules of Practice and Procedure to refer to Parts I, II, VIII, IX and X.

Your attention is also directed to the following subsection 3(2) of the National Energy Board Rules of Practice and Procedure:

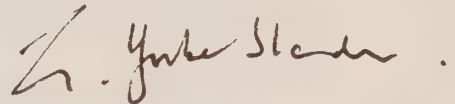
"The Board may, in any proceeding before the Board upon an application, direct either orally or in writing that the provisions of these Rules or any of them shall not apply, or shall apply in part only, and without restricting the generality of the foregoing the Board may, for the purpose of ensuring the expeditious conduct of the business of the Board and the hearing and determination of any such proceeding:

- (a) extend or abridge the time fixed by these Rules for the doing of any act or thing,
- (b) dispense with compliance with any provision of these Rules requiring the doing of any act or thing, or
- (c) substitute other rules for the provisions of these Rules or any of them".

You will note from both subsection 3(2) and the attached Schedule that the Board may waive or alter any of these requirements for information. Applicants who consider that any of the requests are unwarranted or inapplicable for their particular projects may apply to the Board for relief from the stated requirements.

Companies are requested to review the enclosed Parts to the Rules of Practice and Procedure, as well as the planned changes presented in this letter, and submit comments to the Board prior to 31 July 1983.

Yours truly,

A handwritten signature in dark ink, appearing to read "G. Yorke Slader", followed by a period.

G. Yorke Slader
Secretary

Attach.

A single, slightly curved horizontal line drawn in dark ink.

PART I

Unless Otherwise Authorized by the Board, Information Required to be Filed by an Applicant for a Certificate Pursuant to Section 44 of the Act, in Respect of a Gas Pipeline

(1) With respect to the supply of gas:

- (a) a tabular summary of all established reserves of gas under contract to the applicant or the owner(s) of the gas to be transported;
- (b) a forecast of the supply capability from all reserves available to the project;
- (c) where authorization for the removal of gas is required by a statute of a province or territory, evidence that such authorization has been obtained, together with a summary of the applicable terms and conditions and a statement of the quantity and supply capability of the remaining reserves included under each authorization; and
- (d) a supply/demand balance comparing the project requirements to the total supply dedicated to the project.

(2) In addition to the requirements of subsection (1), for all new pipelines or where modifications to a pipeline will significantly affect existing pipeline capacities:

- (a) the names and legal descriptions of the pools, fields or areas from which it is proposed to produce, purchase or otherwise acquire gas for transmission;
- (b) estimates of initial and remaining established reserves of gas for each pool, field or area named in paragraph (a), together with all supporting data, including the following:
 - (i) contour maps of net pay or hydrocarbon pore volume based on data from all wells which penetrate the pool, structure contours on the producing horizon if used to delineate the pool, seismic data used to delineate the pool, the position of the fluid interfaces, and where applicable, identification of the portion of the pool area to which reserves other than those specifically proved by drilling, testing, or production were assigned,
 - (ii) the location of the type well(s) used to identify and/or characterize the pool,
 - (iii) where contracted reserves apply only to part of a pool or area, a plat to indicate the location of contracted reserves and percentage ownership by section,

- 2 -

- (iv) all engineering data required to perform an accurate assessment of the volume of gas in place, and the producible and marketable reserves,
 - (v) for solution gas pools, the initial volume of oil in place, the recoverable oil reserves of the pool and the cumulative production, the gas/oil ratio and shrinkage factor used in calculating the solution gas reserves, and a forecast of the expected solution gas production, and
 - (vi) where a reserves estimate is based on reservoir performance studies, all supporting data including pressure decline, material balance or numerical simulation analyses;
- (c) a deliverability schedule of the maximum daily and annual rates of contracted production for each pool, field or area named in paragraph (a), together with the following supporting data:
- (i) the deliverability characteristics of the wells in the pool,
 - (ii) the anticipated deliverability characteristics for all untested wells and for infill wells scheduled to be drilled,
 - (iii) the contract rates, load factors and/or rates of take,
 - (iv) the timing of infill drilling, addition of compression and construction of gas processing plants, and
 - (v) the onstream dates for shut-in and unconnected reserves; and
- (d) a detailed material balance, both volumetric and molal, showing the heat content of all streams for each reprocessing plant should the gas quantities dedicated to the project be subject to reprocessing.
- (3) With respect to gas markets, details of markets to be served by the applicant's pipeline, including:
- (a) estimates of residential, commercial, industrial (firm and interruptible) and power generation requirements of Canadian markets to be supplied during the first, third, fifth and tenth contract years following completion of the proposed construction, including a detailed description of the methodology, assumptions and data sources;
 - (b) estimates of requirements of any market(s) outside Canada to be supplied during the life of existing gas

- 3 -

export licences utilizing the pipeline system, by port of exit, including maximum daily and annual export quantities anticipated each contract year;

- (c) estimates of fuel requirements by province, for the movement of gas through the pipeline to the markets identified in paragraphs (a) and (b) during the first, third, fifth and tenth contract years following completion of the proposed construction; and
- (d) where not already filed with the Board, copies of all sales contracts, as amended, for gas sold or to be sold by the applicant both inside and outside Canada.

(4) In addition to the requirements of subsection (3), if any of the gas to be transported by the pipeline system incorporating the proposed facilities is not owned by the applicant, copies of any agreements covering the transportation of gas not owned by the applicant, where such agreements are not already filed with the Board.

(5) With respect to those projects that require major new facilities:

- (a) an estimate of the present value of the net economic benefits to Canada of the project, showing the benefits and costs on an annual basis; and
- (b) a description of the methodology and assumptions used to arrive at the estimates referred to in paragraph (a), in sufficient detail to enable the calculations to be verified.

(6) With respect to engineering matters:

- (a) the purpose and justification for the proposed facilities including:
 - (i) a description and cost comparison of the proposed facilities with other alternatives, and
 - (ii) data supporting the optimal design of the proposed facilities, using economic combination of different pipe sizes, compression, and storage facilities;
- (b) the location, a technical description, preliminary drawings, and ground profiles for the proposed facilities;
- (c) a description of the control, communication, and computer systems;

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- (d) the daily, seasonal, and annual capabilities of the existing and the proposed facilities, versus the current and the forecasted requirements for a ten year period, indicating how the forecasted requirements will be met;
- (e) the flow formulae, gas properties, flow calculations or diagrams used in determining the daily capabilities, and all parameters and assumptions;
- (f) histograms showing the existing maximum capacity of each section of the system between the discharge sides of each consecutive compressor stations, and the extent to which the proposed facilities increase the capacity of each section;
- (g) the system capability following the loss of the most critical compressor unit in the system;
- (h) a description of the facilities supplying gas to the proposed pipeline;
- (i) the current and a ten year forecast of the number of dwelling units and public areas along the pipeline for each individual class location as defined in CSA Z184;
- (j) stress and fracture analyses and specifications for the pipeline materials, and a description of the protective coatings;
- (k) a layout and description of any new or modified buildings;
- (l) construction schedule; and
- (m) a list of the applicable regulations, standards, codes and specifications, indicating the date of issue.

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(7) In addition to the requirements of subsection (6), where the proposed facilities are to be located in unstable soil;

- (a) a frost heave and thaw settlement analysis of the affected region;
- (b) a stress analysis for the pipe at a permafrost discontinuity; and
- (c) special designs and measures proposed to safeguard the pipeline.

(8) In addition to the requirements of subsection (6), where the proposed facilities include compression facilities:

- (a) a description of the prime mover(s) including fuel consumption, the rated ISO power and the available power at the proposed location; and
- (b) a description of the compressor(s), including power required for compression, efficiency, inlet and discharge pressures and temperatures, and station yard piping losses and relevant calculations.

(9) In addition to the requirements of subsection (6), where the proposed facilities include measurement facilities:

- (a) a description of all gas measuring equipment including the overall accuracy of measurement, the operating pressures, and capacity range; and
- (b) the range of volumes to be measured.

(10) In addition to the requirements of subsection (6), where the proposed facilities include LNG and gas processing plants:

- (a) process description, plant layout, plant capacity, LNG storage, material balance, and utilities required;
- (b) a description of the treatment of by-products and waste; and
- (c) a risk analysis relating to safety in handling LNG.

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(11) In addition to the requirements of subsection (6), where the proposed facilities include gas storage facilities:

- (a) a plan layout of the proposed facilities;
- (b) the storage capacity, system capacity, and calculations supporting the design;
- (c) a description of the interconnections with existing facilities; and
- (d) a justification of the supply load factor when peak shaving facilities are required to meet demand.

(12) In addition to the requirements of subsection (6), where the proposed facilities interconnect with Canadian and/or international pipeline systems owned and operated by others:

- (a) the operating company's name; and
- (b) the location, maximum allowable operating pressure, and maximum capacity of the interconnected facilities.

(13) With respect to the cost of the proposed facilities,

- (a) an estimate of capital costs, by plant account conforming to Schedule IV of the Gas Pipeline Uniform Accounting Regulations, showing separately for each plant account, a breakdown of the main elements of cost, including:
 - (i) labour,
 - (ii) materials,
 - (iii) interest or allowance for funds used during construction, including rates and method of calculation, and
 - (iv) overhead costs capitalized, including rates and method of calculation; and
- (b) the proposed method and rate of depreciation by plant account, if different from those previously approved by the Board.

(14) With respect to existing facilities and the proposed facilities, the following financial statements or summaries:

- (a) pro forma balance sheets as at the end of the fiscal year in which the proposed facilities are forecast to be completed and as at the end of the succeeding five fiscal years;
- (b) for the five fiscal years referred to in paragraph (a), showing separately the expected changes associated

- 7 -

with the proposed facilities:

- (i) pro forma statements of income,
 - (ii) pro forma statements of retained earnings, and
 - (iii) pro forma statements of changes in financial position; and
- (c) for the five fiscal years referred to in paragraph (a);
- (i) a summary providing details of anticipated revenues by contract, including annual throughput volumes,
 - (ii) a summary of cost of service components, including unit transportation costs,
 - (iii) a schedule of proposed tolls, by class of sale or service and a brief description of the toll design employed, including a statement of any changes that will be required to the applicant's approved tolls, and
 - (iv) pro forma statements of rate base and cost of service by main elements, together with supporting details on the proposed return on rate base and provision for income taxes, showing separately the changes expected to result from the proposed facilities.

(15) Evidence of the financial responsibility and the financial structure of the applicant, and the proposed methods of financing, including:

- (a) (i) audited financial statements for the most recent fiscal year,
- (ii) a description of the applicant's financial structure including equity and debt issues, bank loans and lines of credit, showing principal amounts, interest and dividend rates, dates of issue and maturity, retirement schedules, voting privileges and principal terms and conditions of each issue,
- (iii) a copy of all financing agreements and contracts,

- 8 -

mortgages, deeds of trust, indentures, and other agreements or documents of a similar nature not previously filed with the Board,

- (iv) a concise description of any restrictive provisions concerning future financing, capital structure changes, interest coverage or dividends, or any other proposed action of the applicant, and
- (v) details of any contingent liability or commitment not appearing on the financial statements or notes thereto and of any changes since the balance sheet date which might affect the financial stability of the company; and

- (b) a description of the intended method of financing the proposed facilities, including temporary financing if applicable, together with evidence of financing.

(16) A description of Canadian content of the proposed facilities including:

- (a) a description of the procurement plans and procedures the Applicant intends to use to ensure that Canadian companies will be given a fair and adequate opportunity to participate in the engineering, material and services supply, and construction of the proposed facilities; and
- (b)
 - (i) estimates of the project expenditures, by main cost elements, to illustrate the Canadian dollar value of the Canadian and non-Canadian content, excluding the import content of materials, equipment and services obtained in Canada,
 - (ii) an explanation of the method used by the applicant, or its prospective suppliers, in compiling the Canadian and non-Canadian content expenditures in subparagraph (i), and
 - (iii) where applicable, the reasons why the applicant or its prospective suppliers will not obtain certain materials, supplies and services, or components thereof, from Canadian sources.

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(17) For a major project or a project affecting any sensitive area, an assessment of the probable regional socio-economic impacts of the proposed facilities, including:

- (a) a description of the methodology and assumptions used for the impact assessment;
- (b) a description of the impact area, detailing the economic, demographic, social, land use, government, and community impacts;
- (c) a statement of the applicant's policies and actions developed to promote positive regional socio-economic effects; and
- (d) a statement of the proposed mitigative measures to minimize the negative regional socio-economic effects of the project.

PART II

Unless Otherwise Authorized by the Board, Information
Required to be Filed by an Applicant for a
Certificate Pursuant to Section 44 of the Act,
in Respect of an Oil Pipeline

(1) With respect to the supply of oil:

- (a) a tabular summary of all established reserves of oil dedicated to the proposed pipeline; and
- (b) a forecast of the productive capacity of these reserves.

(2) In addition to the requirements of subsection (1), for all new pipelines or where modifications to a pipeline will significantly affect existing pipeline capacities:

- (a) the names and legal descriptions of the fields, pools, or areas from which it is proposed to produce, purchase, or otherwise acquire oil for transmission;
- (b) estimates of initial and remaining established reserves of oil for each pool, field or area named in paragraph (a), together with all supporting data, including the following:
 - (i) contour maps of net pay or hydrocarbon pore volume based on data from all wells which penetrate the pool, structure contours on the producing horizon if used to delineate the pool, seismic data used to delineate the pool, the position of the fluid interfaces and, where applicable, identification of the portion of the pool area to which reserves not specifically proved by drilling, testing or production, were assigned,
 - (ii) the location of the type well(s) selected to identify and/or characterize the pool,
 - (iii) the outline of the pool as designated by the responsible regulatory authority,

- (iv) all engineering data required to perform an accurate assessment of the volume of oil in place and the recovery factor of the reservoir, to arrive at the initial established reserves, including, where available, a permeability thickness map and a PVT analysis of a representative crude oil sample for the pool, fluid displacement test results and relative permeability curves from a representative core sample, and
 - (v) where reserves estimate is based on reservoir performance studies, all supporting data, including pressure decline, material balance, or numerical simulation analyses;
- (c) a deliverability schedule of the productive capacity of each pool, field or area named in paragraph (a), together with the following supporting data:
- (i) the production history of the pool to date, by well,
 - (ii) a map showing all proposed wells together with the anticipated productive capacity of each such well,
 - (iii) a forecast of oil production, and water/oil and gas/oil ratios for the pool,
 - (iv) where the pool is undeveloped, a pool development plan to include the proposed well spacing, number of producing and injection wells, surface facilities for gathering production, and processing facilities,
 - (v) evidence of having obtained approval of the pool development plan where such approval is required from a regulatory authority, and
 - (vi) the economic production limit of the pool and the price assumptions used in determining this limit;
- (d) where associated gas is to be flared, the reasons for flaring the gas together with evidence of regulatory approval if required; and

- (e) where natural gas liquids are to be transported through the pipeline, a forecast of the compositional analysis of the natural gas streams from which the liquids will be produced.

(3) In addition to the requirements of subsection (1), if facilities are to be used for exports, evidence that the proposed crude oil pipeline is in the public interest, including:

- (a) the present and future oil requirements within Canada;
- (b) the established reserves and trends in growth and discovery of reserves of crude oil in Canada; and
- (c) a surplus evaluation using the procedures set out by the Board at the time of application.

(4) With respect to oil markets:

- (a) the areas to be served and their present and future requirements; and
- (b) details of all throughput contracts entered into by the applicant.

(5) With respect to those projects that require major new facilities:

- (a) an estimate of the present value of the net economic benefits to Canada of the project, showing the benefits and costs on an annual basis; and
- (b) a description of the methodology and assumptions used to arrive at the estimates referred to in paragraph (a), in sufficient detail to enable the calculations to be verified.

(6) With respect to engineering matters:

- (a) the purpose and justification for the proposed facilities including:
 - (i) a description and cost comparison of the proposed facilities with other alternatives, and
 - (ii) data supporting the optimal design of the proposed facilities, using economic combinations of different pipe sizes, pumps, and storage facilities;

- (b) the location, a technical description, preliminary drawings together with ground and hydraulic profiles for the proposed facilities;
- (c) a description of the control, communication, and computer systems;
- (d) the annual capability of the existing and the proposed facilities versus the current and forecasted requirements for a ten year period;
- (e) flow formulae, oil properties, operating parameters, all design calculations;
- (f) a brief description of the facilities supplying oil to the proposed pipeline;
- (g) the current, and a ten year forecast of the number of dwelling units and public areas along the pipeline for each individual zone as defined in the Oil Pipeline Regulations;
- (h) stress and fracture analyses and specifications for the pipeline materials, and a description of the protective coatings;
- (i) a layout and description of any new or modified buildings;
- (j) construction schedule; and
- (k) a list of the applicable regulations, standards, codes and specifications, indicating the date of issue.

(7) In addition to the requirements of subsection (6), where the proposed facilities are to be located in unstable soils:

- (a) a frost heave and thaw settlement analysis of the affected region;
- (b) a stress analysis for the pipe at a permafrost discontinuity; and
- (c) special designs and measures proposed to safeguard the pipeline.

(8) In addition to the requirements of subsection (6), where the proposed facilities include pumping facilities:

- (a) a description of the selected pump and prime mover together with their performance curves;

- (b) the availability of fuel or power for the prime mover; and
- (c) pump station capacity curves for existing and proposed facilities.

(9) In addition to the requirements of subsection (6), where the proposed facilities include measurement facilities, a plan layout and a description of the facilities.

(10) In addition to the requirements of subsection (6), where the proposed facilities include oil storage facilities:

- (a) a plan layout of the proposed facilities;
- (b) the storage capacity, and calculations supporting the design;
- (c) a description of the interconnections with existing facilities; and
- (d) the total daily capacity of any refinery associated with the storage facilities.

(11) In addition to the requirements of subsection (6), where the facilities interconnect with Canadian and/or international pipeline systems owned and operated by others:

- (a) the operating company's name and location; and
- (b) the maximum allowable operating pressure, and maximum capacity of the interconnected facilities.

(12) With respect to the cost of the proposed facilities,

- (a) an estimate of capital costs, by plant account conforming to Schedule II of the Oil Pipeline Uniform Accounting Regulations, showing separately for each plant account a breakdown of the main elements of cost, including:
 - (i) labour,
 - (ii) materials,
 - (iii) interest or allowance for funds used during construction, including rates and method of calculation, and
 - (iv) overhead costs capitalized, including rates and method of calculation; and

- (b) the proposed method and rate of depreciation by plant account, if different from those previously approved by the Board.

(13) With respect to existing facilities and the proposed facilities, the following financial statements or summaries:

- (a) pro forma balance sheets as at the end of the fiscal year in which the proposed facilities are forecast to be completed, and as at the end of the succeeding five fiscal years;
- (b) for the five fiscal years, referred to in paragraph (a), showing separately the expected changes associated with the proposed facilities:
 - (i) pro forma statements of income,
 - (ii) pro forma statements of retained earnings, and
 - (iii) pro forma statements of changes in financial position; and
- (c) for the five fiscal years referred to in paragraph (a);
 - (i) a summary of the forecast throughput volumes indicating their relationship with anticipated transportation revenues, together with copies of all relevant throughput contracts, deficiency agreements or operating agreements, or changes to existing contracts or agreements not previously filed with the Board,
 - (ii) a schedule of proposed tolls showing details of the calculations of the tolls, including a statement of any changes that will be required to the applicant's approved tolls, and
 - (iii) pro forma statements of rate base and cost of service by main elements, together with supporting details on the proposed return on rate base and provision for income taxes, showing separately the changes expected to result from the proposed facilities.

(14) Evidence of the financial responsibility and the financial structure of the applicant, and the proposed methods of financing, including:

- (a) (i) audited financial statements for the most recent fiscal year,
 - (ii) a description of the applicant's financial structure including equity and debt issues, bank loans and lines of credit, showing principal amounts, interest and dividend rates, dates of issue and maturity, retirement schedules, voting privileges and the principal terms and conditions of each issue,
 - (iii) a copy of all financial agreements, contracts, mortgages, deeds of trust, indentures and other agreements or documents of a similar nature not previously filed with the Board,
 - (iv) a concise description of any restrictive provisions concerning future financing, capital structure changes, interest coverage or dividends, or any other proposed action of the applicant, and
 - (v) details of any contingent liability or commitment not appearing on the financial statements or notes thereto and of any changes since the balance sheet date which might affect the financial stability of the company; and
- (b) a description of the intended method of financing the proposed additional facilities, including temporary financing if applicable, together with evidence of financing.

(15) A description of Canadian content of the proposed facilities including:

- (a) a description of the procurement plans and procedures the Applicant intends to use to ensure that Canadian companies will be given a fair and adequate opportunity to participate in the engineering, material, and services supply, and construction of the proposed facilities; and

- (b) (i) estimates of the project expenditures, by main cost elements, to illustrate the Canadian dollar value of the Canadian and non-Canadian content, excluding the import content of materials, equipment and services obtained in Canada,
- (ii) an explanation of the method used by the applicant, or its prospective suppliers, in compiling the Canadian and non-Canadian content expenditures in subparagraph (i), and
- (iii) where applicable, the reasons why the applicant or its prospective suppliers will not obtain certain materials, supplies and services, or components thereof, from Canadian sources.

(16) For a major project or a project affecting any sensitive area, an assessment of the probable regional socio-economic impacts of the proposed facilities, including:

- (a) a description of the approach used for the assessment;
- (b) a description of the impact area, detailing economic, demographic, social, land use, government, and community impacts;
- (c) a statement of the applicant's policies and actions developed to promote positive regional socio-economic effects; and
- (d) a statement of the proposed mitigative measures to minimize the negative regional socio-economic effects of the project.

PART VIII

Unless Otherwise Authorized by the Board, Information Required to be Filed by an Applicant for an Order Pursuant to Section 49 of the Act, in Respect of a Gas Pipeline

- 1) For unrelated projects not specifically addressed in subsections (3) through (10), for which the estimated expenditures are less than \$75,000, or such other limit as the Board may direct, the following information:
 - a) the title and location;
 - b) a technical description;
 - c) a capital cost estimate; and
 - d) construction schedule.
- 2) For all projects not covered by subsection (1):
 - a) the title, location, design, and a technical description, including plan layouts and preliminary drawings;
 - b) the purpose and economic justification, including options considered;
 - c) a list of the applicable regulations, standards, codes and specifications indicating the date of issue;
 - d) specifications for the pipeline materials and protective coatings;
 - e) an estimate of capital costs by plant account, conforming to Schedule IV of the Gas Pipeline Uniform Accounting Regulations, showing separately for each plant account, a breakdown of the main elements of cost, including labour, materials, financing, and other costs;
 - f) the proposed Canadian content for each main element of cost;
 - g) the proposed method of financing;
 - h) where additional throughput is involved for projects;

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- (i) the composition and properties of the gas,
 - (ii) applicable purchase or sales agreements, and
 - (iii) the volumes of established reserves and the estimated deliverability from each source of additional throughput;
 - i) a construction schedule;
 - j) a layout and description of any new or modified buildings; and
 - k) the effect of each project on transportation tolls.
- 3) In addition to the requirements of subsections (2), where the proposed facilities involve a length of line pipe:
- a) the length of the line of pipe for each diameter and wall thickness;
 - b) the design capacity, maximum operating pressure, and flow calculations for average winter and summer days and for peak flow conditions; and
 - c) the current, and a ten year forecast, of the number of dwelling units and public areas in the class locations as defined by the Gas Pipeline Regulations.
- 4) In addition to the requirements of subsections (2) and (3), where the proposed facilities include line pipe replacement or rerating:
- a) a description of the mechanical properties and condition of the existing pipe;
 - b) the results of any programs, surveys, or studies, which indicate the present condition of the pipe;
 - c) details of any failures which have occurred; and
 - d) the future plans for the pipe to be removed.

- 3 -

- 5) In addition to the requirements of subsections (2), where the proposed facilities include additional compression facilities:
 - a) the type and description of the prime mover showing the rated power at ISO conditions and at the proposed location of the compressor station;
 - b) the maximum operating inlet and outlet pressures and temperatures for the compressor; and
 - c) the calculations of the estimated peak and average winter and summer day, and an estimate of the annual additional gas to be delivered.
- 6) In addition to the requirements of subsections (2), where the proposed facilities include pressure regulating facilities:
 - a) the maximum daily throughput; and
 - b) the maximum inlet and outlet pressures.
- 7) In addition to the requirements of subsections (2), where the proposed facilities include additional measurement facilities:
 - a) a description of the metering and gas properties measuring equipment;
 - b) the meter's hourly capacity and pressure range together with the meter accuracy within this range; and
 - c) a five year forecast of gas volumes to be metered on an hourly, daily and annual basis.
- 8) In addition to the requirements of subsections (2), where the proposed facilities include replacements, other than lines of pipe:
 - a) calculations showing increases in system capacity or efficiency;
 - b) where replacement is to improve system reliability:
 - i) records showing all unscheduled downtime,
 - ii) records showing experienced repair and maintenance costs; and
 - c) the future plans for the component(s) to be removed.

- 9) In addition to the requirements of subsections (2), where the proposed facilities include provision for additions or modifications to gas processing plants:
 - a) the effect of the proposed facilities on plant operation; and
 - b) calculations showing potential improvements in system capacity or efficiency.
- 10) In addition to the requirements of subsections (2), where the proposed facilities include gas storage facilities:
 - a) a description of the interconnections with existing facilities;
 - b) the storage capacity, system capacity, and the calculations supporting the design;
 - c) the projected peak day, seasonal, and annual demand; and
 - d) a justification for the supply load factor when peak shaving facilities are required to meet demand.

PART IX

Unless Otherwise Authorized by the Board, Information Required to be Filed by an Applicant for an Order Pursuant to Section 49 of the Act, in Respect of an Oil Pipeline

- 1) For unrelated projects not specifically addressed in subsections (3) through (6) for which the estimated expenditures are less than \$75,000, or such other limit as the Board may direct, the following information:
 - a) the title and location;
 - b) a technical description;
 - c) a capital cost estimate; and
 - d) construction schedule.
- 2) For all projects not covered by subsection (1):
 - a) the title, location, design, and a technical description, including plan layouts and preliminary drawings;
 - b) the purpose and economic justification, including options considered;
 - c) a list of the applicable regulations, standards, codes and specifications, indicating the date of issue;
 - d) specifications for the pipeline materials and protective coatings;
 - e) an estimate of capital costs by plant account, conforming to Schedule II of the Oil Pipeline Uniform Accounting Regulations, showing separately for each plant account, a breakdown of the main elements of costs, including labour, materials, financing, and other costs;
 - f) the proposed Canadian content for each main element of cost;
 - g) the proposed method of financing;
 - h) where additional throughput is involved for projects:
 - (i) the composition and properties of the oil,
 - (ii) copies of all relevant throughput contracts and deficiency agreements,
 - (iii) the sources and volumes of additional oil to be transported, and
 - (iv) the estimated throughput to each market outlet;

- 2 -

- i) a construction schedule;
 - j) a layout and description of any new or modified buildings;
and
 - k) the effect of each project on transportation tolls.
- 3) In addition to the requirements of subsection (2), where the proposed facilities involve a length of line pipe:
- a) the length of the line of pipe for each diameter and wall thickness;
 - b) the design capacity, maximum operating pressure, and flow calculations; and
 - c) for high vapour pressure lines, the current, and a ten year forecast of the number of dwelling units and public areas in the zones as defined in the Oil Pipeline Regulations.
- 4) In addition to the requirements of subsections (2) and (3), where the proposed facilities include line pipe replacement or rerating:
- a) a description of the mechanical properties and condition of the existing pipe;
 - b) the results of any programs, surveys, or studies, which indicate the present condition of the pipe;
 - c) details of any failures which have occurred; and
 - d) the future plans for the pipe to be removed.
- 5) In addition to the requirements of subsection (2), where the proposed facilities include additional pumping facilities:
- a) the additional pumping capacity; and
 - b) a description of the selected pump and prime mover together with their performance curves.
- 6) In addition to the requirements of subsection (2), where the proposed facilities include oil storage facilities:
- a) the increased storage capacity; and
 - b) a description of interconnections with existing facilities.

PART X

Unless Otherwise Authorised by the Board, Information Required to be Filed by an Applicant for a Certificate or an Order Pursuant to Sections 44 and 49 of the Act, in respect of Right-of-Way

(1) With respect to the acquisition of new, permanent, or temporary right-of-way for line pipe:

- (a) the legal description of the termini of the proposed project; and
- (b) documentation, in written and mapped form, setting out the potential constraints noted by federal, provincial and municipal authorities, as well as affected organizations, with respect to alternate route determination and preferred route selection, including:
 - i) the names of agencies and organizations contacted to ascertain route selection constraints,
 - ii) the constraints or objections raised by the agencies affected, as expressed in such items as policy statements and procedures, official plans and zoning bylaws, and
 - iii) the constraints or objections raised by affected organizations with respect to matters such as natural resource protection.

(2) With respect to the acquisition of land for facilities to be added to existing systems:

- (a) the legal description and purpose of the proposed site;
- (b) the site plan of the proposed facility showing:
 - i) the dimensions of the proposed site, including the location of the company's existing easement, and
 - ii) the tentative layout of the required facilities within the site;
- (c) the present zoning of the preferred site and the zoning and current land use of the adjacent properties;
- (d) documentation with respect to the position of the responsible agencies or regulatory authorities for the:
 - i) facility location, and
 - ii) site plan, including access roads; and
- (e) evidence that approval has been received from the responsible agencies or regulatory authorities for the related gathering or distribution facilities.

SCHEDULE

1. Section 5 of the National Energy Board Rules of Practice and Procedure is amended by revoking paragraph (b) of subsection (1) and substituting therefor the following:

"(b) unless otherwise authorized by the Board, the information specified in Part I of the Schedule in respect of a gas pipeline and Part II of the Schedule in respect of an oil pipeline"

2. Section 5 of the said Rules is further amended by adding thereto the following subsections:

"(4) Every application for an Order pursuant to section 49 of the Act shall, unless otherwise authorized by the Board, be accompanied by the information specified in Part VIII of the Schedule in respect of a gas pipeline and Part IX of the Schedule in respect of an oil pipeline."

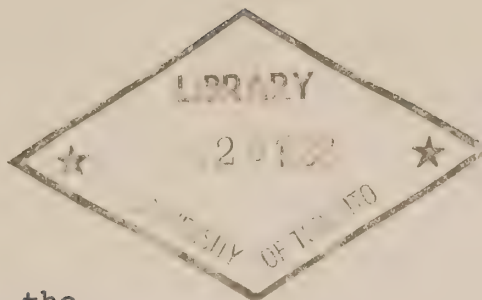
"(5) Every application in respect of a gas or an oil pipeline for a certificate or an Order pursuant to section 49 of the Act shall, unless otherwise authorized by the Board, be accompanied by the information specified in Part X of the Schedule."

NATIONAL ENERGY BOARD
OTTAWA, K1A 0E5



OFFICE NATIONAL DE L'ÉNERGIE
OTTAWA, K1A 0E5

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File No. 134-2

7 July 1983

To All Parties on the
Board's General Mailing List

Re: National Energy Board Rules of Procedure

The Board proposes to replace the National Energy Board Rules of Practice and Procedure, and invites comments on the attached Draft National Energy Board Rules of Procedure.

To assist you in reviewing these Draft Rules, a brief overview and an index are included at the beginning. In addition, explanatory notes are printed on the pages opposite the sections to which they refer.

Associated with the adoption of the Draft Rules would be certain amendments to the National Energy Board Part VI Regulations. Their nature is explained in the overview.

If you wish to submit comments on these proposals, please have them in our hands by 30 September 1983.

The package includes two alternative forms of hearing notice, one on pages 27 and 28, the other on page 28A. If you have any views on their relative merit, please indicate them.

Yours truly,

G. Yorke Slader
Secretary

Encls.

Canada

DRAFT
RULES OF PROCEDURE
OF THE
NATIONAL ENERGY BOARD

AN OVERVIEW OF THE DRAFT NEB RULES OF PROCEDURE

The National Energy Board proposes to replace the National Energy Board Rules of Practice and Procedure with new rules of procedure. Draft NEB Rules of Procedure ("Draft Rules") have been released for public comment. The purpose of this paper is to provide an overview and to explain the major features of the Draft Rules.

The key to the Draft Rules is standardization and simplification of basic procedural structures. The Draft Rules provide guidance with respect to the procedures commonly and predictably followed by the Board. The Board has identified three specific objectives which its procedures should achieve. These have been stated as a preamble to the Draft Rules.

The Draft Rules specify how an application is to be made and its content. In addition, an application is to be supported by Memoranda of Support. Memoranda of Support shall include any information that is required by the Act or the regulations made thereunder or any information which may be useful in explaining or supporting the application. In addition, Memoranda of Support shall include such information as may be required by the practice of the Board. Detailed information requirements are not included in the Draft Rules. The Board will make applicants aware of its practice with respect to information requirements by means of Practice Directions. Practice Directions will provide greater flexibility in adjusting information requirements to changing circumstances. Failure to provide the required information, without the permission of the Board, will result in a delay in processing the application. Of course, if there is no information required by the practice of the Board, no information that is required by the Act or the regulations made thereunder, and no other information which may be useful in explaining or supporting the application, then Memoranda of Support need not be submitted.

One of the first Practice Directions will incorporate the Board's existing information requirements which are now contained in the Schedule to the existing Rules of Practice and Procedure. Proposals to change certain of the existing information requirements have recently been issued for comment by interested parties under separate cover. Any changes to the existing information requirements which are approved by the Board following consideration of comments by interested parties will be incorporated into this Practice Direction.

This Practice Direction would also incorporate the detailed information requirements specified in subsections 4(2) and (3), 5(2), 6(2), and 20(4) of the National Energy Board Part VI Regulations. Subsections 4(2) and (3), 5(2), and 6(2) specify the information to be furnished by applicants for licences to export gas, to import gas, and to export power respectively. Subsection 20(4) specifies the information to be furnished by applicants for licences or orders to export ethylene. The Part VI Regulations will be amended accordingly.

Another Practice Direction will incorporate the Board's policy regarding changes of quantities in gas export licences. This policy is presently contained in section 25 of the National Energy Board Rules of Practice and Procedure. This section is, as a result, not contained in the Draft Rules.

The Memoranda of Support will, in the case of a public hearing, constitute the memoranda of evidence of the applicant. A witness who is produced at the hearing to speak to the applicant's memoranda of evidence must confirm that the memoranda were prepared under his direction or control and are accurate to the best of his knowledge and belief. At that time, the applicant may wish to tender a statement of the qualifications of the witness. The applicant's witness may also indicate that he is prepared to answer questions with respect to the applicant's responses to information requests.

The draft Rules specify the procedure to be followed in connection with a public hearing. When the Board sets a matter down for public hearing it will issue Directions on Procedure together with a Public Notice. Directions on Procedure and Public Notices will replace Hearing Orders and Procedural Orders. An interested person who only wishes to comment on the application may intervene by means of a letter of intervention. An interested person who wishes to participate in the public hearing must intervene by means of a notice of intention to participate. Anyone participating in a hearing may submit information requests to any other party and the Draft Rules ensure that all participants receive a complete copy of the application file. Provision is also made for filing memoranda of evidence by intervenors.

The procedures to be followed where information requests are permitted are also specified.

The Draft Rules require that information requests and Memoranda of Support be coded in accordance with the scheme set out in the Draft Rules. The coding system utilizes an abbreviation for the name of the party or parties involved, a date, and a number for the particular document. The abbreviation for the name of the party might be, for example, in the case of TransCanada Pipelines Limited "TCPL" or in the case of the Province of Ontario "Ont". The numbers assigned to documents may be consecutive or a series of numbers may be used. For example, a series of information requests dealing with rate base might begin at 100, a series of information requests with respect to operating and maintenance expenses might begin at 200, and a series of information requests dealing with rate of return might begin at 300 even though there might be less than 100 questions in each series. The coding system will make it possible to identify documents in a clear and consistent manner from the moment they are created. The code will be used to identify the document throughout the proceeding. It is not necessary to code

the application itself, letters of intervention, or notices of intention to participate since these are readily indentifiable by their titles.

The Draft Rules provide for the form of documents. Documents filed with the Board are to be of a uniform size and must show on their face or in a covering letter the Board file number and a short phrase summarizing the nature of the proceeding. Applicants may obtain assistance from the Office of the Secretary in securing a file number prior to filing an application.

A detailed procedure for bringing Notices of Motion in connection with proceedings is provided. The Draft Rules provide that the Board may set a motion down for hearing but, where the Board does not set the motion down for hearing, the motion is to be disposed of in writing in accordance with the procedures specified.

It is proposed that a register be established. Interested persons will be able to register their interest in respect of an application. This will entitle them to receive any public notice issued by the Board in respect of the application.

Documents which are required to be served must show on their face or in a covering letter the names of the persons upon whom it is required to be served. This will serve to indicate that the party serving the document was aware of the service requirements and, presumably, has complied with those requirements. The Board retains the right to request proof of service by affidavit. The only circumstance in which proof by affidavit is required is in connection with the publication of a public notice and the service of the public notice upon those persons who have registered their interest in respect of the application.

The draft Rules establish a procedure with respect to the production of documents. The basic principle is that reference should not be made to a document unless a party is prepared to produce it.

A detailed procedure with respect to applications for review or re-hearing is specified. This procedure does not apply to an application to reconsider an order or decision of a procedural nature made in the course of a public hearing, other than a decision to adjourn the public hearing for a period in excess of sixty days or for an unspecified period.

The expedited proceedings procedures which are in the existing National Energy Board Rules of Practice and Procedure have been deleted since these are no longer necessary in light of the enactment of section 52.2 of the National Energy Board Act.

The Draft Rules simply republish those rules dealing with the approval of a plan, profile and book of reference and those rules dealing with the right to entry to lands.

The Draft Rules retain the right of the Board to dispense with, vary or supplement any of the provisions of the Rules or to extend or abridge the time prescribed by the Rules or otherwise prescribed by the Board.

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NOTES

PREAMBLE: New.

The objectives stated in the preamble are intended to provide guidance in the interpretation and application of the Rules.

SHORT TITLE: Revised.

The words "National Energy Board" in the present Rules have been abbreviated to "NEB". The reference to "Practice" in conjunction with "Procedure" in the present Rules has been deleted since the Draft Rules do not deal with matters of practice but deal only with procedure.

INTERPRETATION:

"Act": Unchanged.

"affidavit": Unchanged.

"Board": Unchanged.

"complaint": Minor revision. The provision in the present Rules for making complaints in respect of contraventions of the Rules has been deleted. Procedural matters may be raised by Notice of Motion pursuant to section 28 of the Draft Rules.

"information request": New. This definition is required by those provisions of the Draft Rules, in particular sections 19, 20, 40, and 41, which provide for information requests.

"original proceeding": New. This definition is required by Part V of the Draft Rules which establishes procedures for review applications.

"Secretary": Unchanged.

The definition "Canadian content" has been deleted since this definition relates only to matters of practice.

The definition "regulations" has been deleted since this definition is unnecessary in the context of the Draft Rules.

The definition "application" has been deleted since this definition is unnecessary in the context of the Draft Rules. What is achieved by this definition is achieved in a new section 3.

NEB RULES OF PROCEDURE

Whereas the Board desires to replace the National Energy Board Rules of Practice and Procedure with new rules of procedure; and

Whereas the Board desires, through its procedures, to achieve the following objectives:

- (a) that matters which come before the Board are disposed of with reasonable expedition and without unnecessary delays;
- (b) that, where appropriate, interested persons have a reasonable opportunity to be heard with respect to or to comment upon matters which come before the Board;
- (c) that applicants be able to deal effectively with the Board.

Therefore, the National Energy Board, pursuant to section 7 of the National Energy Board Act, hereby repeals the National Energy Board Rules of Practice and Procedure and makes the annexed Rules of Procedure of the National Energy Board, effective .

RULES OF PROCEDURE OF THE NATIONAL ENERGY BOARD

Short Title

1. These Rules may be cited as the NEB Rules of Procedure.

Interpretation

2. In these Rules,

- "Act" means the National Energy Board Act;
- "affidavit" includes a written affirmation;
- "Board" means the National Energy Board;
- "complaint" means a complaint made to the Board alleging anything to have been done or omitted to be done in contravention or violation of the provisions of the Act or the regulations thereunder;

APPLICATION OF RULES: New.

The intent of section 3 is the same as that now contained in subsection 3(1) and the definition "application" of the present Rules. Section 4 would permit the Board to extend the application of the Rules to other proceedings, for example, inquiries under Part II of the Act.

DISPENSING WITH PROCEDURE:

Section 5 is similar in intent to part of subsection 3(2) of the present Rules.

DIRECTIONS ON PROCEDURE:

Section 6 is similar in intent to part of subsection 3(2) of the present Rules.

"information request" means any request in writing for information or particulars made to a party in a proceeding;

"original proceeding" means, in respect of an application for review or re-hearing pursuant to subsection 17(1) of the Act, the proceeding in respect of which a review or rehearing is sought;

"Secretary" means the Secretary of the Board.

Application of Rules

3. (1) Except as otherwise provided, these Rules apply to every proceeding under any of the provisions of the Act or the regulations thereunder commenced by an application to the Board, initiated by a complaint, or initiated by the Board of its own motion.

(2) These Rules do not apply to any application to the Board for leave to open a pipeline or section thereof under section 38 of the Act, to any application to the Board under the National Energy Board Substituted Service Regulations, or to any proceeding under Part II of the Act.

Extension of Rules

4. The Board may direct by public notice, order or other appropriate means that these Rules or any of them shall apply mutatis mutandis to any proceeding before the Board to which these Rules would not otherwise apply.

PART I

GENERAL

Dispensing with Procedure

5. In respect of any proceeding, the Board may, where appropriate, dispense with, vary or supplement any of the provisions of these Rules.

Directions on Procedure

6. Where it deems it appropriate in any proceeding, the Board may issue directions on procedure, which shall govern the conduct of the proceeding and prevail over any provision of these Rules that is inconsistent with those directions.

EXTENDING OR ABRIDGING TIME:

Section 7 is similar in intent to part of subsection 3(2) of the present Rules although it clarifies the power of the Board to abridge or extend a time period after the period has expired.

REGISTER: New

Section 8 is intended to expedite proceedings before the Board. It would enable the Board to ensure that, where a public notice is to be given, the notice is given quickly to those who have shown their interest in the application by registering in advance. Registration would complement but not replace the other means available to the Board of giving public notice.

SERVICE: New.

Subsections 9(1) and (2) are intended to provide guidance to parties who are required to serve documents. The essential principle is that any means of service is acceptable provided the document actually reaches the person to be served. Subsection (3) requires that a document which is served show the names of the persons upon whom it is required to be served. This will ensure that parties serving documents apply their minds to the requirements of service and, having applied their minds to it, will presumably comply with those requirements. Subsection (4) is similar in intent to part of subsection 12(1) of the present Rules. However, the requirement in subsection 9(3) of the Draft Rules would permit the Board to require affidavits of service by exception rather than as the rule. Note that a different principle applies in connection with the publication and service requirements associated with the issuing of a public notice. Since the publication and service of a public notice initiates the proceeding, subsection 29(2) requires proof by affidavit of compliance with those publication and service requirements.

Extending or Abridging Time

7. The Board may extend or abridge the time prescribed by these Rules or otherwise prescribed by the Board and this power may be exercised although the application is not made until after the expiration of the time prescribed.

Register

8. (1) Any person may be registered for the purpose of receiving any public notice issued by the Board in respect of an application after filing a notice in Form 1 of the schedule with the Secretary containing the information required by that Form.

(2) Where a person wishes to amend any of the information contained in a notice filed under subsection (1), the person may file a substitute notice in Form 1 of the schedule with the Secretary, indicating that the former notice is to be replaced thereby.

(3) The Board may from time to time send inquiries to persons who have been registered to verify that their registration should be maintained.

(4) The Secretary shall maintain the register and shall notify applicants and potential applicants forthwith of any additions, deletions or amendments thereto.

Service

9. (1) Service of any notice or other document, including a document originated by the Board, may be effected by any means.

(2) Service of a document shall be deemed to have been made on the date of actual receipt thereof by the party to be served.

(3) Any document required to be served shall be endorsed with the names of, or otherwise indicate, the persons upon whom it is required to be served.

(4) Subject to section 29, proof of service by affidavit shall, at the request of the Board, be filed with the Secretary in respect of any document required to be served.

FILING DATES: New.

Section 10 reflects the existing but unwritten procedure and is intended to give better guidance to parties.

AFFIDAVITS:

Subsection 11(1) reflects the existing procedure of the Board. Subsection 11(2) is substantially similar to subsection 12(2) of the present Rules.

VERIFICATION:

Section 12 is substantially similar to subsection 12(1) of the present Rules.

STAY OF PROCEEDING:

Section 13 is similar in intent to subsection 14(1) of the present Rules. Subsections 14(2) and (3) of the present Rules have been deleted as being unnecessary.

FORMULATION OF ISSUES:

Section 14 is substantially similar to section 15 of the present Rules.

Filing Dates

10. Where any document is required to be filed with the Board, the date of filing shall be deemed to be the date of actual receipt by the Board.

Affidavits

11. (1) Affidavits in proceedings before the Board shall be filed with the Secretary.

(2) Where an affidavit is made as to belief, the grounds on which the belief is based shall be set out in the affidavit.

Verification

12. (1) The Board may, at any time, require the whole or any part of any application, answer, intervention or reply or a response to an information request to be verified by affidavit by giving a notice to that effect to the party from whom such verification is required.

(2) If a notice given under subsection (1) is not complied with, the Board may set aside the application, answer, intervention or reply or the response to an information request or strike out any part thereof not verified in accordance with the notice.

Stay of Proceeding

13. Where a party to a proceeding has not complied with any requirement of these Rules or any direction on procedure issued by the Board, the Board may stay the proceeding until satisfied that such requirement has been complied with or take such other steps as it considers just and reasonable.

Formulation of Issues

14. If it appears to the Board at any time that the statements in an application, answer, intervention or reply do not sufficiently raise or disclose the issue of fact in dispute between the parties, the Board may direct the parties to prepare issues that shall, if not agreed to by the parties, be settled by the Board.

QUESTIONS OF LAW:

Section 15 is similar in intent to section 16 of the present Rules. However, section 15 provides explicitly that these questions may be referred to the Federal Court of Appeal as an alternative to a determination by the Board. This reflects the provisions of subsection 28(4) of the Federal Court Act.

CONFERENCE:

Section 16 is substantially similar to section 17 of the present Rules except that section 16 provides for the settling of matters connected with information requests at a conference. The section contemplates that the matters to be dealt with at the conference would be related to the sufficiency of the responses to the information requests.

PRODUCTION OF DOCUMENTS: New.

Section 17 is intended to provide better guidance to parties with respect to the production and inspection of documents referred to in the course of a proceeding. The basic principle is that a party should not refer to a document unless the party is prepared to produce it. Section 18 of the present Rules provides that production and inspection of documents shall be in accordance with the practice of the Federal Court. This provision has not provided much assistance in resolving questions that have arisen from time to time with respect to the production of documents.

Questions of Law

15. If it appears to the Board at any time that there is a question or issue of law, or jurisdiction or of practice or procedure that should be decided before a proceeding is continued, the Board may direct the question or issue to be raised for a determination by the Board or may direct the question or issue to be referred to the Federal Court of Appeal for decision and the Board may, pending the determination of such question, order the whole or part of the proceeding to be stayed.

Conference

16. The Board may, orally or in writing, direct parties or their solicitors to appear before a member or an officer of the Board for a conference, or to make submissions in writing, for the purpose of formulating issues and considering

- (a) the simplification of issues,
- (b) the necessity or desirability of amending an application, answer, intervention or reply for the purpose of clarification, amplification or limitation,
- (c) the admission of certain facts or the proof of them by affidavit, or the use by any party of documents of a public nature,
- (d) the settling of matters connected with information requests,
- (e) the procedure at the hearing,
- (f) the mutual exchange among the parties of documents and exhibits proposed to be submitted at the hearing, and
- (g) any other matters that may aid in the simplification of the evidence and disposition of the proceedings.

Production of Documents

17. (1) Any party to a proceeding may, at any time before the hearing of the proceeding, give notice in writing to any other party in whose application, notice of motion, answer, intervention, reply, or response to an information request reference has been made to a document to produce that document for inspection by the party giving the notice or his solicitor and to permit him or his solicitor to make copies thereof.

ADDITIONAL INFORMATION:

Section 18 is substantially similar to section 6 of the present Rules.

INFORMATION REQUESTS: New.

Section 19 reflects, in large part, the Board's existing procedures with respect to written information requests. The section contemplates that a time limit may be set after which information requests can no longer be addressed. Written requests for information from the Board to a party would also be styled as information requests. The purpose of the letter and number code is to permit the ready and consistent identification of an information request throughout a proceeding.

(2) Any party who fails to comply with a notice given to him pursuant to subsection (1) within 10 days from the receipt thereof shall not thereafter be at liberty to put the document referred to in the notice in evidence on his behalf in the proceeding, unless he satisfies the Board that he had sufficient excuse for his default.

Additional Information

18. At any time in any proceeding, the Board may require any party to provide such further information, particulars or documents as the Board deems necessary to enable the Board to obtain a full and satisfactory understanding of the subject-matter of the proceeding.

Information Requests

19. (1) Where in any proceeding information requests are permitted to be directed to a party, such information requests shall be

- (a) addressed to the party;
- (b) numbered consecutively, but a series of numbers may be used for information requests relating to the same subject-matter;
- (c) identified with a designation in the following form:

"XYZ(ABC)31Oct82-100(T)"

where

- (i) the first series of letters is an abbreviation for the party from whom the response is sought,
- (ii) the next series of letters in parentheses is an abbreviation for the party seeking the response,
- (iii) the date is the date on which the information request was sent
- (iv) the number is the number of the particular information request, and
- (v) the last letter in parentheses identifies the nature of the proceeding; and
- (d) served, where the Board has directed a time limit, within the time limit directed by the Board.

(2) A copy of any information requests directed to a party pursuant to subsection (1) shall be filed with the Secretary.

RESPONSES TO INFORMATION REQUESTS: New.

The intent of section 20 is to give better guidance to parties and to standardize the information request process.

SUBPOENAS: New.

Section 21 replaces section 18 of the present Rules which provides that the attendance of witnesses shall be in accordance with the practice of the Federal Court. Section 21 is intended to provide better guidance to parties with respect to the procedure for obtaining a subpoena.

EVIDENCE AT A HEARING:

Subsections 22(1) and (2) are substantially similar to subsection 21(2) of the present Rules. Subsection 22(3) is new. This subsection is intended to give better guidance to parties with respect to the procedure to be followed where a party intends to file written direct evidence. Subsections 21(2), (3) and (4) of the present Rules have been deleted as unnecessary.

Responses to Information Requests

20. (1) Subject to subsection (2), where in any proceeding information requests are permitted to be directed to a party and information requests have been served on the party, the party shall

(a) subject to any time limit which the Board may direct, provide a full and adequate response to each information request on a separate page or pages, headed as indicated in Form 2 of the schedule; and

(b) file a copy of the responses with the Secretary.

(2) A party who is unable or unwilling to provide a full and adequate response to an information request shall

(a) where the party contends that the information necessary to provide a response is not available, provide a response that sets out the reasons for the unavailability of such information and provide alternative available information that the party considers would be of assistance to the person directing the information request, and

(b) file with the Secretary a copy of the response provided.

Subpoenas

21. (1) A subpoena shall be sealed by the Secretary with the Board's seal and may be served in any part of Canada.

(2) A subpoena may be issued in blank, may be completed by the solicitor or party on whose behalf it is issued and may contain the names of any number of persons required to appear before the Board.

Evidence at a Hearing

22. (1) Witnesses at a hearing shall be examined viva voce on oath or affirmation unless otherwise provided by these Rules.

EVIDENCE IN OTHER PROCEEDINGS:

Section 23 is a substantial revision of section 22 of the present Rules. Section 23 is broader than section 22 of the present Rules.

SITTINGS:

Section 24 is similar in intent to sections 19 and 20 of the present Rules.

ARGUMENT:

Subsection 25(1) is substantially similar to section 23 of the present Rules. Subsection 25(2) is new.

- (2) The Board may, at any time, order that
 - (a) any particular facts be proved by affidavit;
 - (b) the affidavit of any witness be read at a hearing on such conditions as the Board thinks reasonable; and
 - (c) any witness be examined before a commissioner or other person authorized to administer oaths appointed by it for that purpose.

(3) Where memoranda of evidence have been furnished prior to the appearance of a witness, the Board may permit the introduction of those memoranda as evidence in chief by a witness who confirms that the memoranda were prepared under his direction or control and are accurate to the best of his knowledge and belief.

Evidence in Other Proceedings

23. Evidence taken,

- (a) at another hearing before the Board, or
- (b) at a hearing before any board, commission or other competent tribunal of a province, a territory, or Canada,

or any report finding or order made in respect thereof may, by leave of the Board obtained before or after the commencement of the hearing of an application, be received in evidence at the hearing.

Sittings

24. (1) Where the hearing of any application has commenced, the hearing shall proceed, as far as may be practicable in the opinion of the Board, from day to day but may be adjourned from time to time by order of or with the authority of the Board.

(2) The Board may, whenever circumstances render it appropriate to hold a sitting elsewhere than in the National Capital Region, hold the sitting in any part of Canada.

Argument

25. (1) The Board may, whenever it deems it advisable to do so, order written briefs to be submitted by the parties in addition to or in lieu of oral argument.

(2) The Board may, whenever it deems it advisable to do so, limit the time permitted for oral argument.

FORM OF DOCUMENTS: New.

Subsection (1) is intended to standardize the form of documents submitted to the Board. Subsection (2) is intended to facilitate the identification of documents related to one proceeding as distinct from other proceedings. Subsection (3) is intended to facilitate ease of reference to documents which have been revised or amended. Subsection (4) is consequential to the provisions of paragraph 19(1)(c)(iv) and paragraph 35(b)(iii).

AMENDMENTS:

This section is substantially similar to section 13 of the present Rules.

Form of Documents

26. (1) All applications, interventions and other documents made or submitted by any party in connection with any proceeding shall, unless special circumstances otherwise require, be of uniform size, 21.6 centimetres wide by 27.9 centimetres long.

(2) Every document filed with the Board in connection with any proceeding shall be endorsed with, or otherwise referenced to the Board file number and a short phrase summarizing the nature of the proceeding, for example, "XYZ Company, 1982 Operating and Maintenance Budget".

(3) Where any application, intervention or other document or part thereof made or submitted by any party in connection with any proceeding is revised or amended, each page which has been revised or amended shall

(a) indicate the date of revision or amendment,

(b) indicate the portion of the page revised or amended with a vertical line in the right-hand margin opposite to the revision or amendment, and

(c) be accompanied by a statement explaining the nature of the amendment of revision.

(4) For the purposes of sub-paragraphs 19(1)(c)(v) and 35 (b)(iii)

(a) the letter "F" shall be used to identify proceedings under Part III of the Act;

(b) the letter "T" shall be used to identify proceedings under Part IV of the Act;

(c) the letter "L" shall be used to identify proceedings under Part VI of the Act;

(d) the letter "A" shall be used to identify applications for accounting orders; and

(e) the letter "M" shall be used to identify all other proceedings.

Amendments

27. The Board may, on terms or otherwise,

(a) make or allow any amendment in any proceeding, or

NOTICE OF MOTION: New.

Section 28 is intended to give better guidance with respect to the procedure to be followed with respect to notices of motion. The section provides for the expeditious disposition of notices of motion in writing where the Board does not set the motion down for hearing.

(b) order to be amended or struck out any matters that, in the opinion of the Board, may tend to prejudice, embarrass or delay a fair hearing of the proceeding on the merits, and may order any other amendments as may, in the opinion of the Board, be necessary for the purpose of hearing and determining the real question in issue between the parties.

Notice of Motion

28. (1) Except where otherwise provided, any matter which arises in the course of a proceeding and which requires a decision or order of the Board shall be brought before the Board by notice of motion.

(2) A notice of motion shall be in writing and shall contain a clear and concise statement of the facts, the order or decision sought and the grounds therefor.

(3) A notice of motion shall be filed with the Secretary and served upon all parties to the proceeding.

(4) The Board may set the motion down for hearing but, in the absence of such a direction, the motion shall be disposed of in writing.

(5) Where the motion is to be disposed of in writing, any party may submit a written answer to the motion within 10 days of receipt of the notice of motion.

(6) An answer shall contain a clear and concise statement of the facts or law upon which it is based and be filed with the Secretary and served upon all parties to the proceeding.

(7) The party bringing the motion may, where he has been served with an answer, submit a written reply within 5 days of receipt of the answer.

(8) A reply shall contain a clear and concise statement of the allegations on which it is based and be filed with the Secretary and served upon all parties to the proceeding.

(9) Any document which a party may wish to submit in support of a notice of motion, answer, or reply shall accompany the pleading in question and shall be filed with the Secretary and served upon all parties to the proceeding.

PUBLICATION: New.

Section 29 replaces section 10 of the present Rules. The intention of section 29 is to ensure that public notices issued by the Board are properly published and served upon persons who have registered their interest pursuant to section 8 of the Draft Rules. Proof by affidavit of compliance with the provisions of the section is required.

DEFECTS IN FORM: New.

Section 30 reflects the policy that purely formal or technical defects will not defeat any proceeding.

CONTEMPT:

Section 31 is identical to subsection 26(1) of the present Rules. Subsections 26(2) and (3) of the present Rules have been deleted since the Board does not have the power to punish for contempt out of the face of the Board.

APPLICATION IN WRITING:

Subsection 32(1) is substantially similar to subsection 4(1) of the present Rules. Subsections 32(2) and (3) ensure that an application involving, for example, a complaint is served on the party against whom the complaint is directed, and that such party is given an opportunity to respond.

Publication

29. (1) Where the Board issues a public notice, the applicant shall
- (a) forthwith publish the public notice in all newspapers specified by the Board, and
 - (b) forthwith serve a copy of the public notice upon any person who has registered his interest in respect of the application pursuant to section 8.
- (2) The applicant shall file with the Secretary proof by affidavit of compliance with the provisions of paragraphs (1)(a) and (b).

Defects in Form

30. No proceeding shall be defeated by any objections based solely on defects in form.

Contempt

31. Any person who is guilty of contempt of the Board in the presence of a Board member conducting a public hearing may, after he has been called upon to justify his behavior, be condemned at once.

PART II

APPLICATIONS

Application in Writing

32. (1) Except where the Board otherwise permits, an application made to the Board shall be in writing addressed to the Secretary and signed by the applicant or his authorized representative.
- (2) Where an application is directed against another party in adverse interest to the applicant, the applicant shall serve a copy of the application on such party who may, within 20 days of receipt of the application, submit a written statement containing his answer.
- (3) An answer shall contain a clear and concise statement of the facts or law upon which it is based, be accompanied by any document which the party may wish to submit in support of the answer, and be filed with the Secretary and served upon the applicant.

CONTENTS OF APPLICATION:

Section 33 is substantially similar to subsection 4(2) of the present Rules.

MEMORANDA OF SUPPORT: New.

The information submitted in support of an application shall be filed in the form of Memoranda of Support. The Draft Rules delete the schedule of information requirements which is attached to the present Rules. It is contemplated that applicants would be made aware of the Board's information requirements by means of Practice Directions. Of course, if the practice of the Board does not require any information to be submitted and an applicant does not file any information in addition to the application itself then Memoranda of Support would not be required. Subsection 42(1) of the Draft Rules provides that the Memoranda of Support filed by the applicant will constitute the memoranda of evidence of the applicant.

FORM OF MEMORANDA OF SUPPORT: New.

Section 35 is intended to ensure that Memoranda of Support are prepared in a way which facilitates ease of use and reference. The purpose of the coding system is to permit the ready identification throughout a proceeding of documents submitted in support of an application.

Contents of Application

33. Every application shall
- (a) contain a concise statement of the facts relevant to the application, the provisions of the statute or regulation under which it is made and the nature of the order or decision applied for and its purpose;
 - (b) be divided into consecutively numbered paragraphs, each of which shall be confined as nearly as may be practicable to a separate and distinct portion of the subject of the application; and
 - (c) be endorsed with the name, address, telephone number and other telecommunications numbers of the applicant or of his authorized representative to whom communications may be sent.

Memoranda of Support

34. An application shall be supported by Memoranda of Support which shall include
- (a) such information as may be required by the practice of the Board and
 - (b) any other information that is required by the Act or the regulations thereunder to be submitted to the Board or which may be useful in explaining or supporting the application.

Form of Memoranda of Support

35. Memoranda of Support shall
- (a) be filed with the Secretary in the form of numbered memoranda,
 - (b) be identified with a designation in the following form:

"XYZ31Aug82(T)-100"

where

- (i) the first series of letters is an abbreviation for the applicant,
 - (ii) the date is the date of the application,
 - (iii) the letter in parentheses identifies the nature of the proceeding, and
 - (iv) the number is the number of the particular memorandum, and
- (c) be, in respect of each particular memorandum, divided into consecutively numbered paragraphs.

STATEMENT OF PROCEDURE: New.

Section 36 is intended to require applicants to give consideration with respect to the procedural requirements which may be associated with the application.

DIRECTIONS ON PROCEDURE: New.

Sections 37 and 38 (Public Notice) contemplate that the Board will issue directions on procedure together with a public notice when an application is to be set down for public hearing. Since the basic procedural structures used by the Board are provided for in the Draft Rules, directions on procedure in Form 3 and public notices in Form 4 are much shorter than present hearing and procedural orders.

PUBLIC NOTICE: New.

The intent of section 38 is discussed in the immediately preceding paragraph.

INTERVENTIONS:

Section 39 replaces section 11 of the present Rules. Section 39 clarifies the right of interested persons to intervene either by simply sending a letter to the Board or by participating at a public hearing. This clarification is desirable in light of the provisions of section 45 of the Act which requires the Board to consider the objections of any interested person in respect of an application for a certificate. The section also creates a right in the applicant of reply to an intervention. This will ensure that if something is said in a letter of intervention which is damaging to the application, the applicant may address it.

Statement of Procedure

36. Except where the Act requires a public hearing, an applicant shall state, at the time of the application, the procedure by which he proposes the Board dispose of the application.

PART III

PUBLIC HEARINGS

Directions on Procedure

37. Directions on procedure issued by the Board under this Part shall be in Form 3 of the schedule.

Public Notice

38. Where an application is to be disposed of by means of a public hearing, the Board shall issue a public notice which shall be modeled in accordance with Form 4 of the schedule.

Interventions

39. (1) Where a public notice has been given pursuant to this Part, any interested person may intervene in respect of the application by filing with the Secretary and serving on the Applicant, on or before the date prescribed

(a) a letter of intervention that describes the nature of the intervenor's interest in the application and states clearly his views regarding the application together with any relevant information that may be useful in explaining or supporting those views; or

(b) a notice of intention to participate in 30 copies that

(i) states clearly the intervenor's intention to participate at the public hearing,

(ii) sets out the name, mailing address, address for personal service and telephone number or other telecommunications numbers of the intervenor or agent authorized to receive documents on his behalf,

INFORMATION REQUESTS: New.

Section 40 establishes the right to submit information requests where an application is to be disposed of by means of a public hearing. The section contemplates that a time limit may be set which would provide for the information request process to be completed prior to the commencement of the public hearing.

APPLICATION FILE: New.

Section 40 is intended to ensure that participants in public hearings have a complete copy of the application file.

- (iii) describes the nature of the intervenor's interest in the application and states clearly his views thereon together with any relevant information that may be useful in explaining or supporting those views, and
- (iv) indicates the official language in which the intervenor wishes to participate in the public hearing.

(2) An intervenor under paragraph (1)(b), upon being advised by the Secretary of the name and mailing address of any other intervenor under paragraph (1)(b), shall serve a copy of the notice of intention to participate on such intervenor.

(3) The applicant may, within 10 days of receipt of a letter of intervention or a notice of intention to participate, serve a reply on the intervenor and shall file a copy of the reply with the Board.

Information Requests

40. (1) Any interested person who files with the Secretary a notice of intention to participate may address information requests to the applicant or any other interested person who has filed with the Secretary a notice of intention to participate.

(2) Where the Board has directed a time limit, supplementary information requests may, with the consent of the Board, be addressed after the date prescribed in respect of questions arising out of the responses to previous information requests.

Application File

41. (1) The applicant shall ensure that all interested persons who have filed a notice of intention to participate in the public hearing are sent a copy of the application, the Memoranda of Support, and any directions on procedure issued by the Board, and shall send such persons a copy of all responses by the applicant to information requests as soon as possible after they are filed with the Board.

(2) A party, other than the applicant, shall send a copy of all responses by the party to information requests to the applicant and all interested persons who have filed a notice of intention to participate in the public hearing as soon as possible after they are filed with the Board.

EVIDENCE: New.

Section 42 provides for the filing of written direct evidence in connection with a public hearing. As previously discussed in connection with section 34 of the Draft Rules, the Memoranda of Support filed by an applicant shall constitute the memoranda of evidence of the applicant.

NON-HEARING PROCEDURES: New.

Section 43 is intended to give guidance with respect to the procedures available where an application is to be disposed of without a public hearing.

Evidence

42. (1) The Memoranda of Support filed by the applicant pursuant to section 34 shall constitute the memoranda of evidence of the applicant.

(2) Where an intervenor intends to present evidence at a public hearing, memoranda,

(a) in question and answer form with lines numbered, or

(b) divided, in respect of each particular memorandum, into consecutively numbered paragraphs,

consisting of the material intended to be presented as evidence shall be filed in 30 copies with the Secretary within the time limit prescribed by the Board and a copy thereof shall be served on the applicant and all interested persons who have filed a notice of intention to participate in the public hearing.

PART IV

OTHER PROCEDURES

Non-hearing Procedures

43. (1) Where the Board does not dispose of an application by way of a public hearing, the Board may

(a) dispose of the application on the basis of the written documentation before it,

(b) require further information to be furnished by the applicant or any other person, or,

(c) invite submissions from interested persons and issue directions on procedure in Form 5 of the schedule for that purpose.

(2) Where the Board invites submissions from interested persons pursuant to paragraph (1)(c), the Board may issue a public notice which shall be modeled in accordance with Form 6 of the schedule.

FOLLOW-UP PROCEDURES: New.

Section 44 contemplates that outstanding matters may arise from an application which require following-up in an orderly way. The section contemplates that such matters would ultimately be resolved.

ON-GOING PROCEDURES: New.

Section 45 contemplates a situation where the Board makes an order which requires the applicant to continue to make filings with the Board. The section provides for the establishment of procedures in such cases.

REVIEW APPLICATIONS:

Part V replaces section 24 of the present Rules. Part V establishes a procedure with respect to review applications which is intended to expedite the disposition of such applications.

(3) Submissions from any interested person shall be filed with the Secretary and served upon the applicant in the form of a letter of intervention that describes the nature of the person's interest in the application and clearly states his views regarding the application together with any relevant information that may be useful in explaining or supporting those views.

Follow-up Procedures

44. The Board may designate any outstanding matter arising from any application as a follow-up item and may issue directions on procedure with respect to the disposition of such follow-up items.

On-going Procedures

45. Where any decision by or order of the Board in respect of any application contemplates that the decision or order will give rise to further proceedings before the Board, the Board may issue directions on procedure with respect to the disposition of such proceedings.

PART V

REVIEW APPLICATIONS

Applications

46. (1) An application for review or re-hearing pursuant to subsection 17(1) of the Act shall be in writing filed with the Secretary.

(2) An application pursuant to subsection (1) may be made

- (a) by any person who was a party to the original proceeding, or
- (b) with leave of the Board, by any person.

(3) An application pursuant to subsection (1) shall contain a clear and concise statement of the facts, the nature of the order or decision applied for, and the grounds that the party making the application considers sufficient to raise a doubt as to the correctness of the order or decision including

- (a) any error of law or denial of justice;
- (b) changed circumstances that have arisen since the issuance of the order or decision or since the hearing;
- (c) new facts that have arisen since the issuance of the order or decision or since the hearing;
- (d) facts that were not considered by the Board in making the order or decision or at the time of the hearing and that were not discoverable by reasonable diligence; or
- (e) any important matter of principle which is raised by the order or decision.

(4) The applicant shall serve a copy of his application on every person who was a party to the original proceedings.

(5) Any person who seeks leave to initiate a review pursuant to paragraph (2)(b) shall serve a copy of the application for leave on every person who was a party to the original proceeding.

Answer

47. (1) A party who has been served with an application for a review or re-hearing or an application for leave to initiate an application for a review or re-hearing may, within 20 days of receipt of the application, submit a written statement containing his answer.

(2) An answer shall contain a clear and concise statement of the facts or law upon which it is based.

(3) An answer shall be filed with the Secretary and served upon the applicant and all parties to the original proceeding.

Reply

48. (1) An applicant who has been served with an answer may, within 10 days after receipt of the answer, submit a written statement containing his reply.

(2) A reply shall contain a clear and concise statement of the allegations on which it is based.

(3) A reply shall be filed with the Secretary and served upon all parties to the original proceeding.

Documents in Support

49. Any document which a party may wish to submit in support of an application, answer, or reply shall accompany the pleading in question and be filed with the Secretary and served upon all parties to the original proceeding.

Determination

50. (1) The Board shall determine in respect of any application for leave to initiate an application for a review or a re-hearing, whether the application for leave should be granted and if it finds that the application for leave should be granted, it shall then grant the application for leave.

(2) The Board shall determine in respect of any application to review an order or decision, whether that order or decision should be reviewed and if it finds that the order or decision is reviewable, it may then, in its discretion, either dispose of the application or issue directions on procedure with respect to the conduct of the review.

(3) The Board shall determine in respect of any application for a re-hearing, whether the matter should be re-heard and, if it finds that the matter should be re-heard, it shall issue directions on procedure with respect to the re-hearing.

PART VI:

Sections 53 to 62 are unchanged from those rules recently made by the Board with respect to proceedings pursuant to section 29.1 of the Act.

Application for Stay

51. (1) Concurrently with the filing of an application for review, an applicant may apply to the Board for an order staying the order or decision which is sought to be reviewed pending the outcome of the application for review.

(2) Concurrently with the filing of an application for leave to appeal to the Federal Court of Appeal pursuant to subsection 18(1) of the Act, an applicant for leave to appeal may apply to the Board for an order staying the order or decision in respect of which leave to appeal is sought pending the outcome of the appeal.

(3) An application for a stay shall be in writing filed with the Secretary and served on all parties to the original proceeding.

Clarification

52. Notwithstanding anything in this Part, an application to reconsider an order or decision of a procedural nature made in the course of a public hearing, other than a decision to adjourn a public hearing for a period in excess of 60 days or for an unspecified period, may be made by notice of motion pursuant to section 28 to be disposed of by the panel of the Board conducting the public hearing.

PART VI

APPROVAL OF PLAN, PROFILE AND BOOK OF REFERENCE

53. Sections 8 and 9, subsection 24(2), section 26, and sections 31 and 45 do not apply to proceedings under this part.

54. For the purpose of sections 55 to 59, "applicant" means a company that makes an application for approval of a plan, profile and book of reference under section 29 of the Act.

55. (1) Before any notice in relation to a plan, profile and book of reference is served or published by an applicant under section 29.1 of the Act, the applicant shall

(a) submit to the Board for approval as to form a sample notice for service and a sample notice for publication, including for each such notice a sample form of description of the proposed detailed route to be included in each notice; or

(b) identify in writing, for the approval of the Board, a form of notice or forms of notices previously approved by the Board that it proposes to serve or publish in relation to the plan, profile and book of reference.

(2) Unless an alternative form of notice is approved in advance by the Board, the description of the proposed detailed route of the pipeline forming part of a notice for service on an owner of lands under section 29.1 of the Act shall include a plan of the lands proposed to be acquired, drawn with reference to legal survey points if such points are available, that is of a scale sufficient to identify with reasonable accuracy the location, dimensions and area of the lands in relation to the remaining adjacent lands of the owner, if any.

(3) Unless an alternative form of notice is approved in advance by the Board, the description of the proposed detailed route of the pipeline forming part of a notice for publication under section 29.1 of the Act shall include

(a) a plan of a scale sufficient to represent with reasonable accuracy, having regard to the terrain and degree of habitation in the area, the location of the proposed detailed route in relation to prominent topographical features, population centres, highways, utilities and other such prominent local landmarks; and

(b) a schedule listing sequentially the names of each registered owner in fee simple of the lands proposed to be acquired within the area covered by the plan and identifying the lands of each such owner by such legal designations of land, including the municipal address, parcel number, registered plan number, lot, concession, township, parish, range, county or other equivalent land divisions, as are sufficient to identify the lands of each such owner.

- (4) The submission required under subsection (1) shall include
- (a) a copy of each plan described in paragraph 3(a) that is proposed to be published,
 - (b) a statement that shows for each such plan the size of the area covered by the plan and the population densities in the area; and
 - (c) a statement of the names of the publications in which it is proposed to publish the notice and the number of issues of each such publication in which it is proposed to publish such notice.

(5) Each notice published under section 29.1 of the Act shall identify a location within or near the area covered by the plan where the plans, profiles and books of reference for that area are available for inspection unless the Board directs that the notice need not identify such a location.

(6) The notices served or published under section 29.1 shall not depart in any material respect from the forms approved by the Board.

56. If a notice referred to in paragraph 29.1(1)a of the Act cannot be served by personal service in any manner permitted by the general rules of practice in the Federal Court of Canada, the applicant wishing to serve the notice may apply to the Board for an order under the National Energy Board Substituted Service Regulations.

57. A person who files with the Board a written statement under subsection 29.1(2) or (3) of the Act in relation to a proposed detailed route of a pipeline described in a notice served or published by an applicant shall send concurrently, by registered mail, a copy of the statement to the applicant at the address shown in the notice.

58. Forthwith upon completion by an applicant of the service and publication of notices under section 29.1 of the Act in relation to a plan, profile and book of reference, the applicant shall notify the Board in writing of the dates of the last such service and publication.

59. (1) Upon the fixing by the Board under subsection 29.2(1) of the Act of a hearing date respecting a plan, profile and book of reference submitted to the Board by an applicant, the Secretary shall send to the applicant a copy of

the names and addresses of persons who have filed written statements with the Board in respect of that plan, profile and book of reference, and the applicant shall upon receipt thereof forthwith send by registered mail to each such person a copy of the order of the Board.

(2) The applicant referred to in subsection (1) shall file at the hearing held under subsection 29.2(3) of the Act proof of compliance with subsection (1) and with subsection 29.1(1) of the Act.

Costs

60. Sections 61 and 62 apply to the costs referred to in section 29.6 of the Act in relation to a public hearing held under subsection 29.2(3) of the Act.

61. A person who has made representations to the Board at a public hearing held under subsection 29.2(3) of the Act shall prepare an itemized statement of the actual costs reasonably incurred by that person for the purposes of the hearing and shall send concurrently by registered mail a copy of the statement to the Secretary and to the company whose pipeline route is affected by the hearing.

62. (1) Where a person sends a statement of costs to a company in accordance with section 34 and the company does not pay in full the costs itemized in the statement within 60 days of the date of mailing of the statement, that person may request the Board to fix the amount to be paid by the company.

(2) A company that receives a statement of costs in accordance with section 34 may at any time after receipt thereof request the Board to fix the amount to be paid by the company.

(3) A request referred to in this section shall be in writing and the person or company making the request shall send concurrently by registered mail a copy of the request to the Board and to the other party.

PART VII:

Sections 63 to 66 are unchanged from those rules recently made by the Board in respect of proceedings pursuant to section 75.26 of the Act.

(4) The Board may appoint a member of its staff to mediate between the parties involved in a request to the Board under this section with a view to obtaining an agreement as to the amount of costs to be paid by the company but if no agreement is reached within 20 days following the appointment of the mediator, the Board shall upon notice to the parties commence proceedings to fix the amount to be paid.

PART VII

RIGHT TO ENTRY TO LANDS

63. Sections 8, 9, 25, and 31 to 45 do not apply to proceedings under this Part.

64. A company that wishes to apply to the Board for an order under section 75.26 of the Act shall,

- (a) forthwith after the completion of service on the owner of lands of a notice referred to in subsection 75.26(2) of the Act, file a copy of the notice with the Board, and
- (b) forthwith after the service on the owner of the lands of the schedule referred to in paragraph 65(b), file a copy of the schedule with the Board.

65. An application under section 75.26 of the Act shall include

- (a) proof that the notice referred to in subsection 75.26(2) of the Act has been served on the owner of the lands by personal service in any manner permitted by the general rules of practice in the Federal Court of Canada or in any manner ordered by the Board under the National Energy Board Substituted Service Regulations, within the time referred to in that subsection;
- (b) a schedule proposed to be made part of the order sought from the Board that contains, in registrable form, a description of
 - (i) the lands in respect of which the order is sought,
 - (ii) the right, title or interest applied for in respect of the lands, and

- (iii) any rights, obligations, restrictions or other terms and conditions proposed to attach to the right, title or interest, to any remaining interest or interests, or to any adjacent lands of the owner;
- (c) if the notice referred to in subsection 75.26(2) of the Act has been served on the owner of the lands by personal service, proof that the schedule referred to in paragraph (b) has been served on that owner not less than 20 days prior to the date on which the application is made to the Board; and
- (d) a current abstract of title to the lands or a certified copy of the certificate of title to the lands.

66. (1) An owner of lands in respect of which an application under section 75.25 of the Act has been made by a company who sends to the Board an objection in writing referred to paragraph 75.26(2)(c) of the Act shall send concurrently, by registered mail, a copy of the objection to the company at the address shown in the notice served on the owner by the company.

(2) A company that receives a written objection referred to in subsection (1) may file with the Board a written response to the objection or shall inform the Board in writing that it does not wish to respond to the objection.

SCHEDULE

FORM 1

Notice of Interested Party

(date)

Secretary
National Energy Board
(address)

TAKE NOTICE THAT (name of person) desires to be registered for the purpose of receiving any public notice which may be issued by the Board in respect of any application(s) of the kind described below, which may be made to the National Energy Board by (name of applicant). This notice is filed in accordance with section 8 of the NEB Rules of Procedure.

The type of application(s) for which notice is sought is as follows: (describe nature of application(s)).

(Name of person) is interested in such application(s) by reason of the fact that (describe nature of interest).

The name, mailing address, address for personal service, (and telephone and other telecommunications numbers if applicable) of the individual or agent authorized to receive notices on (my, our) behalf are as follows: (name and particulars).

Signed

.....
(name, title)
(name of person)

FORM 2

Response to Information Request

(full name of party furnishing response)	Response to Information Request XYZ(ABC)31Oct82-100(T)
(date of response)	Page 1 of 1

FORM 3

Directions on Procedure under Part III

(file number)

(date)

(style of cause)

Directions on Procedure

(Name of applicant) has applied to the National Energy Board for (describe type of application). Having considered the application, the Board directs as follows:

1. The applicant shall deposit and keep on file, for public inspection during normal business hours, a copy of the application (in its offices, if applicable) at (insert location(s)).
2. Letters of intervention and notices of intention to participate at the public hearing are required to be filed by (date).
3. The Secretary will issue a list of participants shortly after (date).
4. Information requests addressed to the applicant or any other party to the proceeding are required to be filed and served by (date).
5. Responses to information requests received within the specified time limit shall be filed with the Board and served on all other parties to the proceeding by (date).
6. Provided the application file is completed to the satisfaction of the Board, the public hearing shall commence at (location) on (day, date, time).
(Note: Where a pre-hearing conference is to be held, paragraph 6 would be re-numbered 7, paragraphs 7, 8, and 9 below would be re-numbered 8, 9, and 10, and a new paragraph 6 would be inserted as follows:
"6. A pre-hearing conference is scheduled to take place at (location) on (day, date, time).")
7. In addition to those persons entitled to a copy of a public notice under the NEB Rules of Procedure, the applicant shall serve a copy of the attached public notice forthwith on the following: (insert names).
8. The newspapers in which the applicant is required to publish the public notice are as follows: (insert names).

(Note: Where directions are given, for example, with respect to the issues to be heard or the phases in which the hearing is to be conducted, they shall be inserted here and paragraph 9 below would be re-numbered accordingly.)

8. These Directions supplement the NEB Rules of Procedure.

(name)
Secretary

FORM 4

Public Notice under Part III

Ottawa, (date)
(name of company, style of cause, file number)

The National Energy Board has received an application from (name of applicant) for (describe type of application).

The application and accompanying documents are available for public inspection during normal business hours at the offices of (name(s) and appropriate address(es)) and at the library of the NEB (address) and will be sent to anyone filing a notice of intention to participate.

INTERVENTIONS

Any interested person may intervene in one of two ways:

1. BY SENDING A LETTER TO THE BOARD

Any interested person who wishes to comment on this application may do so by sending or delivering by hand a letter of intervention to the Board with a copy thereof to (name of applicant) on or before (date). The addresses to be used are (name of Secretary), Secretary, NEB, (address); and (name and address of appropriate officer of the applicant). A letter of intervention should clearly state the nature of the intervenor's interest in the application and the intervenor's views regarding the application together with any relevant information that may be useful in explaining or supporting those views.

2. BY PARTICIPATING AT THE PUBLIC HEARING

The Board will be conducting a public hearing that is tentatively scheduled to take place at (location), commencing (day, date, time) provided the application file has been completed to the satisfaction of the Board. Participation in the hearing, which generally requires being present on a daily basis, involves presentation of evidence by both the applicant and intervenors, often through expert witnesses, and includes cross-examination. If you wish to participate at the public hearing, you must file a notice of intention to participate with the Board with a copy to the applicant on or before (date). This will entitle you to receive a complete copy of the application. The deadline for submission of information requests to the applicant or any other party to the proceeding, with a copy to the Board, is (date). Responses to information requests shall be filed with the Board and served on all other parties to the proceeding on or before (date). Intervenor written direct evidence should be filed with the Board on or before (date). A copy of the written direct evidence should be sent to the applicant and all other parties to the proceeding. The Secretary will issue a list of parties shortly after (date).

FURTHER INFORMATION

Read the NEB Rules of Procedure to find out the rights and obligations of parties to a hearing. Copies are available at a cost of (charge) from (name and address). The Board has also issued specific directions on procedure with respect to this hearing which supplement the NEB Rules of Procedure. Copies are available free of charge from (name and address). For additional information on the application or the hearing procedure, please contact (name of applicant) or (name and title) NEB at (address and telephone number).

(name)
Secretary

(Note: Where the Board has issued directions on procedure which contain directions, for example, with respect to the issues to be heard or the phases in which the hearing is to be conducted, the public notice shall contain this information in appropriate language or, where the inclusion of this information would result in a public notice of a length unsuitable for publication, shall state that such directions have been issued and contain the methods available for obtaining them.)

NATIONAL ENERGY BOARD
NOTICE OF PUBLIC HEARING

Alternative
to pages 27 and 28

(NAME OF COMPANY, STYLE OF CAUSE)

The National Energy Board will conduct a hearing into an application by *(Name of Applicant)* pursuant to *(Parts)* of the National Energy Board Act, for *(Describe Application)*. The hearing will commence *(Date, Time, Location)*.

The hearing will be public and will be held to obtain evidence and relevant views of interested parties, groups, organizations, and companies on the application.

Anyone wishing to participate in the hearing must file a Notice of Intention to Participate with the Secretary of the Board and serve a copy on the Applicant. The Applicant will mail a copy of the application to each participant.

Anyone wishing only to comment on the application should write to the Secretary of the Board and send a copy to the Applicant at *(Name and Address of Applicant)*.

The deadline for receipt of either comments or Notice of Intention to Participate is *(Date)*. The Secretary will then issue a list of participants.

Information on the procedures for this hearing *(Reference Number)* or the Rules of Procedure governing all hearings (both documents available in English and French) may be obtained by writing to the Secretary or telephoning the Board's Information Services at (613) 593-6936.

G. Yorke Slader
Secretary
National Energy Board
473 Albert Street
Ottawa, Ontario
K1A 0E5

Dated at Ottawa, Canada
this day of 1983.

FORM 5

Directions on Procedure Pursuant to Section 43

(file number)

(date)

(style of cause)

Directions on Procedure

(Name of applicant) has applied to the National Energy Board for (describe type of application). Having considered the submissions of the applicant with respect thereto, the Board directs as follow:

1. The applicant shall deposit and keep on file, for public inspection during normal business hours, a copy of the application (in its offices, if applicable) at (insert location(s)).
2. Letters of intervention are required to be filed with the Board and served on the applicant by (date).
3. Replies to letters of intervention are required to be filed with the Board and served on all intervenors by (date).
4. The applicant shall serve a copy of the application and these Directions on Procedure forthwith on the following: (insert names).
(Note: Where the Board issues a public notice pursuant to section 43, paragraph 5 below would be renumbered 7 and the following paragraphs would be inserted:
"5. In addition to those persons entitled to a copy of a public notice under the NEB Rules of Procedure, the applicant shall serve a copy of the attached public notice forthwith on the following: (insert names)."
6. The newspapers in which the applicant is required to publish the public notice are as follows: (insert names).")
5. These Directions supplement the NEB Rules of Procedure.

(name)
Secretary

FORM 6

Public Notice Pursuant to Section 43

Ottawa, (date)
(name of applicant, style of cause, file number)

The National Energy Board has received an application from (name of applicant) for (describe type of application).
(Provide a summary of the application or the proposed issue.)

INTERVENTIONS

Any interested person who wishes to comment on this application may do so by sending or delivering by hand a letter of intervention to the Board with a copy thereof to the applicant on or before (date). The addresses to be used are Secretary, NEB (address) and (address of the applicant). A letter of intervention should clearly state the nature of the intervenor's views regarding the application together with any relevant information that may be useful in explaining or supporting those views. Copies of replies from the applicant to letters of intervention shall be sent or delivered by hand to the Board with a copy to all intervenors on or before (date).

FURTHER INFORMATION

For additional information on the application, the locations at which the application may be inspected, or the procedure to be followed please contact (name of applicant) or (name and title) NEB at (address and telephone number).
(Note: Two alternate texts are provided for the concluding section of the notice.)

TEXT A

The Board will dispose of the application on the basis of the written material before it.

TEXT B

Depending on the nature of the interventions and replies received within the time periods set out above, the Board will determine whether or not a public hearing will be held to deal with the application. All interested persons who have expressed an interest in the application will be notified by the Board should a public hearing be convened. In the event that a public hearing is not held, the Board will dispose of the application on the basis of the written material before it.

(name)
Secretary

NATIONAL ENERGY BOARD
OTTAWA, K1A 0E5



OFFICE NATIONAL DE L'ÉNERGIE
OTTAWA, K1A 0E5

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- N 53

File No. 134-2

21 September 1984

TO: All Parties on the Board's General Mailing List

RE: National Energy Board Rules of Practice and Procedure

The Board thanks parties for the many detailed and helpful comments provided in response to our letter of 7 July 1983.

The Draft Rules have been substantially revised in response to the various suggestions received. Attached to this letter are the Revised Draft Rules for any final comments you may have. Also attached are notes indicating the changes that have been made.

We hope that at this stage your comments will not require the extensive work which many parties put into the first round, and that repetition of comments already made will be avoided.

It is the Board's objective to finalize these Rules in November 1984. Comments should, therefore, be received by 31 October 1984.

Yours truly,

G. Yorke Slader
Secretary

Encls.

REVISED DRAFT

RULES OF PRACTICE AND PROCEDURE

OF THE

NATIONAL ENERGY BOARD

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Schedule II

Information Requirements

NEB RULES OF PRACTICE AND PROCEDURE

Whereas the Board desires to replace the National Energy Board Rules of Practice and Procedure with new rules of procedure; and

Whereas the Board desires, through its procedures, that matters which come before the Board are disposed of with regard to the requirements of fairness and natural justice, with reasonable expedition, and without unnecessary delays;

Therefore, the National Energy Board, pursuant to section 7 of the National Energy Board Act, hereby revokes the National Energy Board Rules of Practice and Procedure and makes the annexed Rules of Practice and Procedure of the National Energy Board effective .

RULES OF PRACTICE AND PROCEDURE OF THE NATIONAL ENERGY BOARD

Short Title

1. These Rules may be cited as the NEB Rules of Practice and Procedure.

Interpretation

2. In these Rules,

"Act" means the National Energy Board Act;

"affidavit" includes a written affirmation;

"application" means any application to the Board under the Act or the regulations and includes a complaint;

"Board" means the National Energy Board;

"complaint" means a complaint made to the Board alleging anything to have been done or omitted to be done in contravention or violation of the provisions of the Act or the regulations;

"information request" means any request in writing for information or particulars made to a party in a proceeding;

"original proceeding" means,

(a) in respect of an application for a review pursuant to subsection 17(1) of the Act, the proceeding giving rise to the order or decision in respect of which a review is sought, and

(b) in respect of an application for a re-hearing of an application pursuant to subsection 17(1) of the Act, the proceeding commenced by the application in respect of which a re-hearing is sought.

"proceeding" means any proceeding before the Board under the Act or the regulations;

"regulations" means any regulations made under the Act;

"party" means an applicant and an intervenor;

Application of Rules

3. (1) Subject to subsection (2) and section 4, these Rules apply to every proceeding.

(2) These Rules do not apply to any proceeding commenced by an application for leave to open a pipeline or section thereof under section 38 of the Act, to any proceeding commenced by an application under the National Energy Board Substituted Service Regulations, or to any proceeding under Part II of the Act.

Extension of Rules

4. The Board may direct by public notice, order or other appropriate means that these Rules or any of them shall apply mutatis mutandis to any proceeding to which these Rules would not otherwise apply.

PART I

GENERAL

Dispensing with Procedure

5. In any proceeding, the Board may dispense with, vary or supplement any of the provisions of these Rules.

Directions on Procedure

6. In any proceeding, the Board may issue directions on procedure which shall govern the conduct of the proceeding and prevail over any provision of these Rules that is inconsistent with those directions.

Extending or Abridging Time

7. The Board may extend or abridge the time prescribed by these Rules or otherwise prescribed by the Board and this power may be exercised although the application is not made until after the expiration of the time prescribed.

Service

8. (1) Service of any notice or other document, including a document originated by the Board, may be effected by any means.

(2) Any document required to be served shall show the names of the persons upon whom it is required to be served or shall otherwise indicate the persons upon whom it is required to be served.

(3) Subject to section 25, proof by affidavit of the means taken to effect service shall, at the request of the Board, be filed with the Secretary in respect of any document required to be served.

Filing Dates

9. Where any document is required to be filed, the date of filing shall be the date of actual receipt by the Secretary or anyone authorized by the Secretary to receive such documents.

Affidavits

10. (1) Affidavits in proceedings before the Board shall be filed with the Secretary.

(2) Where an affidavit is made as to belief, the grounds on which the belief is based shall be set out in the affidavit.

Verification

11. (1) The Board may, at any time, require the whole or any part of any document filed with the Board to be verified by affidavit by giving a notice to that effect to the person from whom such verification is required.

(2) Unless the Board otherwise directs, if a notice given under subsection (1) is not complied with, the document in question shall be set aside or any part thereof not verified in accordance with the notice shall be struck out.

Failure to Comply

12. Where a party to a proceeding has not complied with any requirement of these Rules or any direction on procedure issued by the Board, the Board may stay the proceeding until satisfied that such requirement has been complied with or take such other steps as it considers just and reasonable.

Formulation of Issues

13. In any proceeding, the Board may

(a) where the documents filed with the Board do not sufficiently raise the matters in issue in the proceeding,

(b) where it would assist the Board in the conduct of the proceeding, or

(c) where it would assist parties to participate more effectively in the proceeding

formulate issues which shall be considered by it in the proceeding and, for this purpose, may direct parties to propose issues which, if not agreed to by all the parties, shall be settled by the Board.

Questions of Law

14. If it appears to the Board at any time that there is a question or issue of law, or jurisdiction or of practice or procedure that should be decided before a proceeding is continued, the Board may

(a) direct the question or issue to be raised for a determination by the Board or

(b) direct the question or issue to be referred to the Federal Court of Appeal for decision

and the Board may, pending the determination of such question, order the whole or part of the proceeding to be stayed.

Conference

15. The Board may convene a conference with parties, or may direct parties to make submissions in writing, for the purpose of formulating issues and considering

(a) the simplification of issues,

(b) the necessity or desirability of amending an application, answer, intervention or reply for the purpose of clarification, amplification or limitation,

(c) the admission of certain facts or the proof of them by affidavit, or the use by any party of documents of a public nature,

(d) the settling of matters connected with information requests,

(e) the procedures to be adopted in the proceeding,

(f) the mutual exchange among the parties of documents and exhibits, and

(g) any other matters that may aid in the simplification and disposition of the proceedings.

Production of Documents

16. (1) Where in any application, notice of motion, answer, intervention, reply, or response to an information request a party refers to a document which the party intends to rely on in the proceeding, any party to the proceeding may request that the document be produced for inspection and copying by the party making the request or may, subject to payment of the reasonable costs of reproduction, request a copy of the document.

(2) Any party who fails to comply with a request given to him pursuant to subsection (1) within 10 days from the receipt thereof shall not thereafter be at liberty to put the requested document in evidence on his behalf in the proceeding, unless he satisfies the Board that he had sufficient excuse for his default.

Additional Information

17. At any time in any proceeding, the Board may require any party to provide such further information, particulars or documents as the Board deems necessary to enable the Board to obtain a full and satisfactory understanding of the subject-matter of the proceeding.

Information Requests

18. (1) Where in any proceeding information requests are permitted to be directed to a party, such information requests shall be

(a) addressed to the party;

(b) numbered consecutively in respect of each item of information requested; and

(c) served, where the Board has directed a time limit, within the time limit directed by the Board.

(2) A copy of any information requests directed to a party pursuant to subsection (1) shall be filed with the Secretary and served on all parties to the proceeding.

Responses to Information Requests

19. (1) Subject to subsection (2), where in any proceeding information requests are permitted to be directed to a party and information requests have been served on the party, the party shall

(a) subject to any time limit which the Board may direct, provide a full and adequate response to each information request on a separate page or pages; and

(b) file with the Secretary and serve on all parties to the proceeding a copy of the responses.

(2) Subject to any time limit which the Board may direct, a party who is unable or unwilling to provide a full and adequate response to an information request shall

(a) where the party objects to providing the information requested, provide a response stating the objection and setting out the grounds therefor; or

(b) where the party contends that the information necessary to provide a response is not available, provide a response that sets out the reasons for the unavailability of such information and provide alternative available information that the party considers would be of assistance to the person directing the information request, and

(c) file with the Secretary and serve on all parties to the proceeding a copy of the response provided.

Subpoenas

20. (1) A subpoena may be obtained by a party on request from the Secretary, shall be signed by the Secretary and sealed by the Secretary with the Board's seal and may be served by the party in any part of Canada.

(2) A subpoena shall be in Form 1 of Schedule I and may be issued in blank, may be completed by the solicitor or party on whose behalf it is issued and may contain the names of any number of persons required to appear before the Board.

(3) No one served by a party with a subpoena is required to appear before the Board pursuant to such subpoena unless there has been paid or tendered to him conduct money in an amount sufficient for his reasonable fees and travelling expenses, if any.

Evidence in Other Proceedings

21. Subject to subsection 30(6), in any proceeding, information or evidence received

(a) in another proceeding before the Board, or

(b) by any board, commission or tribunal of a province, a territory, or Canada,

or any report, finding or order made in respect thereof may, by leave of the Board, be received in the proceeding.

Form of Documents

22. (1) Every document filed with the Board in connection with any proceeding shall be endorsed with the Board file number and a short phrase summarizing the nature of the proceeding, for example, "XYZ Company, 1982 Operating and Maintenance Budget".

(2) Where any application, intervention or other document or part thereof made or submitted by any party in connection with any proceeding is revised or amended,

(a) each revised or amended page shall

- (i) indicate the date of revision or amendment and
 - (ii) indicate the portion of the page revised or amended with a vertical line in the right-hand margin opposite to the revision or amendment, with an asterisk, or with other similar markings, and
- (b) be accompanied by a statement explaining the nature of the amendment or revision.

Amendments

23. In any proceeding, the Board may, on condition or otherwise,

- (a) allow any amendment to any document,
- (b) order to be amended or struck out any document or any part thereof that may tend to prejudice, embarrass or delay a fair hearing of an application on the merits, or
- (c) order any other amendment as may be necessary for the purpose of hearing and determining the real question in issue in the proceeding.

Notice of Motion

24. (1) Any matter which arises in the course of a proceeding and which requires a decision or order of the Board shall be brought before the Board by notice of motion.

(2) A notice of motion shall be in writing and may be in any form provided that it contains a clear and concise statement of the facts, the order or decision sought and the grounds therefor.

(3) A notice of motion shall be filed with the Secretary and served upon all parties to the proceeding.

(4) Unless the Board otherwise directs, the motion shall be disposed of in writing.

(5) Any party who wishes to answer the motion shall file with the Secretary and serve on all parties to the proceeding, within 10 days of receipt of the notice of motion, a written answer.

(6) The party bringing the motion may, where he has been served with an answer, file with the Secretary and serve on all parties to the proceeding, within 5 days of receipt of the answer, a written reply.

(7) Any document which a party may wish to submit in support of a notice of motion, answer, or reply shall accompany the pleading in question and shall be filed with the Secretary and served upon all parties to the proceeding.

(8) Notwithstanding subsections (2) to (7), a notice of motion given during the course of a public hearing may be given orally at the public hearing and

shall be disposed of in accordance with such procedure as the panel of the Board conducting the public hearing may direct.

Publication

25. (1) Where the Board issues a public notice, the applicant shall

(a) forthwith publish the public notice in all publications specified by the Board, and

(b) forthwith serve a copy of the public notice upon such persons as the Board may direct.

(2) The applicant shall file with the Secretary proof by affidavit of publication pursuant to paragraph (1)(a) and of the means taken to effect service pursuant to paragraph (1)(b).

Substantial Compliance

26. No objection based on a failure to comply with these Rules or any direction on procedure shall be sustained where, in respect of the matter objected to, there has been substantial compliance with the Rules or the direction on procedure, as the case may be.

Contempt

27. Any person who is guilty of contempt of the Board in the presence of a Board member conducting a public hearing may, after he has been called upon to justify his behavior, be condemned at once.

PART II

APPLICATIONS

Application in Writing

28. (1) Subject to section 24 and Part V, an application shall be in writing addressed to the Secretary and signed by the applicant or his authorized representative.

(2) A complaint shall be served on any person whose conduct is the subject of the complaint and such person may, within 20 days of receipt of the complaint, submit a written statement containing his answer.

(3) An answer shall be accompanied by any document which the party may wish to submit in support of the answer and shall be filed with the Secretary and served on the applicant.

Contents of Application

29. Every application shall

(a) contain a concise statement of the facts relevant to the application, the provisions of the Act or regulation under which it is made and the nature of the order or decision applied for and its purpose;

(b) be divided into consecutively numbered paragraphs, each of which shall be confined as nearly as may be practicable to a separate and distinct portion of the subject of the application; and

(c) state the name, address, telephone number and other telecommunications numbers of the applicant or of the authorized representative of the applicant to whom communications may be sent and upon whom documents may be served.

Information Requirements

30. (1) Unless the Board otherwise directs, every application identified in Column I of Schedule II shall be accompanied by the information specified in the Part or Parts of Schedule II identified in Column II of Schedule II

(2) Every application shall, in addition to the information required by subsection (1), be accompanied by any information which is required by the Act or the regulations to be submitted to the Board or which may be useful in explaining or supporting the application.

(3) Where an applicant is unable to submit in company with his application any information required by subsections (1) and (2), he shall submit with the application such information as is available at that time and shall state the time at which he intends to submit the balance of the information required.

(4) Where an applicant is unwilling to submit any information required by subsections (1) and (2) on the ground that the information is not relevant to the application, he may submit the application without the information to which objection is taken but the application shall then be accompanied, in addition to the information required by subsections (1) and (2) to which no objection is taken, by a statement setting out the objection and the grounds therefor.

(5) Where the Board does not sustain an objection taken pursuant to subsection (4), the Board shall so inform the applicant and the applicant shall submit the information in respect of which the objection has not been sustained.

(6) Where any information required by subsections (1) and (2) to be submitted to the Board is already in the possession of the Board, the applicant may submit the application without such information but the application shall then be accompanied by a statement identifying the information and the circumstances under which it came into the possession of the Board.

PART III

PUBLIC HEARINGS

Directions on Procedure

31. Directions on procedure issued by the Board under this Part shall be in Form 2 of Schedule I.

Public Notice

32. Where an application is to be disposed of by means of a public hearing, the Board shall issue a public notice in Form 3 of Schedule I.

Interventions

33. (1) Where a public notice has been given pursuant to this Part, any interested person may intervene in respect of the application by filing with the Secretary and serving on the applicant, on or before the date prescribed, a written intervention that

(a) states clearly the intervenor's intention to appear at the public hearing,

(b) sets out the name, mailing address, address for personal service and telephone number or other telecommunications numbers of the intervenor or agent authorized to receive documents on his behalf,

(c) describes the nature of the intervenor's interest in the application and states clearly the issues which the intervenor intends to address at the public hearing or, where the intervenor does not intend to actively participate at the public hearing, states clearly the reasons why the intervenor's interest in the application requires the intervention in respect of the application, and

(d) indicates the official language in which the intervenor wishes to be heard at the public hearing.

(2) An intervenor, upon being advised by the Secretary of the name and mailing address of any other intervenor, shall serve a copy of the written intervention on such intervenor.

(3) The applicant and any other party may, within 15 days of receipt of a written intervention, serve a reply on the intervenor and shall file with the Secretary and serve on all parties to the proceeding a copy of the reply.

Letters of Comment

34. (1) Where a public notice has been given pursuant to this Part, any interested person who does not wish to intervene in respect of the application but who wishes to make his views regarding the application known to the Board may file with the Secretary and serve on the applicant, on or before the date prescribed, a letter commenting on the application which describes the nature

of the person's interest in the application and states clearly his views regarding the application together with any relevant information that may be useful in explaining or supporting those views.

(2) Subject to subsection (4), a person who files a letter pursuant to subsection (1) does not thereby acquire status as an intervenor and shall not be entitled to any further notice in the proceeding.

(3) The Secretary shall provide the parties to the proceeding with a copy of any letter filed pursuant to subsection (1).

(4) The applicant and any other party to the proceeding may, within 15 days of receipt of a letter referred to in subsection (1), serve a reply on the person who has filed the letter and shall file a copy of the reply with the Secretary and serve a copy of it on any party to the proceeding.

Information Requests

35. (1) Any party to the proceeding may address information requests to any other party to the proceeding.

(2) Where the Board has directed a time limit, additional information requests may be addressed after the date prescribed only with leave of the Board or with the consent of the party to whom the information requests are addressed.

Application File

36. Unless the Board otherwise directs, the applicant shall serve each intervenor

(a) with a copy of the application,

(b) with any information required to be submitted to the Board pursuant to section 30,

(c) if requested to do so by the intervenor, with a copy of any information not submitted to the Board pursuant to subsection 30(6), and

(d) any directions on procedure issued by the Board.

Evidence at a Public Hearing

37. (1) Subject to subsections (5) and (6), in this section "written evidence" means the material

(a) in written question and answer form with lines numbered, or

(b) in written form with consecutively numbered paragraphs

intended to be presented by a party as evidence at a public hearing.

(2) Subject to subsection (3), witnesses at a public hearing shall be examined viva voce on oath or affirmation.

(3) The Board may, at any time, order that

(a) any particular facts be proved by affidavit;

(b) the affidavit of any witness be read at a public hearing on such conditions as the Board thinks reasonable; and

(c) any witness be examined before a commissioner or other person authorized to administer oaths appointed by the Board for that purpose.

(4) Subject to subsections (5) and (6), any party who wishes to present evidence at a public hearing shall, prior to the appearance of any witness and within any time limit prescribed by the Board, file written evidence with the Secretary and serve a copy of it on all parties to the proceeding.

(5) Where an intervenor files and serves written evidence pursuant to subsection (4), the written evidence of the intervenor shall be deemed to include any information provided by the intervenor in the intervenor's written intervention or in any response by the intervenor to an information request.

(6) The information submitted by an applicant to the Board pursuant to section 30, the information identified by the statement referred to in subsection 30(6) and any responses by the applicant to information requests shall be deemed to constitute the written evidence of the applicant and the applicant shall not, except by leave of the Board, be at liberty to submit additional written evidence.

(7) The Board may permit the introduction of written evidence at a public hearing as the evidence in chief of a witness who confirms that the written evidence was prepared by him or under his direction and control and is accurate to the best of his knowledge or belief.

(8) Where the Board has directed a time limit, written evidence supplementing the written evidence referred to in subsection (4) or the additional written evidence referred to in subsection (6) may be filed with the Secretary and served on all parties to the proceeding after the date prescribed only with leave of the Board.

Sittings

38. (1) Where a public hearing has commenced, the public hearing shall proceed, as far as may be practicable in the opinion of the Board, from day to day but may be adjourned by the Board from time to time.

(2) The Board may, whenever circumstances render it appropriate to hold a sitting elsewhere than in the National Capital Region, hold the sitting in any part of Canada.

Argument

39. The Board may order written argument to be submitted by the parties in addition to or in lieu of oral argument.

PART IV

OTHER PROCEDURES

Non-hearing Procedures

40. (1) Where the Board does not dispose of an application by way of a public hearing, the Board may

(a) dispose of the application on the basis of the written documentation before it,

(b) require further information to be furnished by the applicant, or

(c) invite submissions from interested persons and issue directions on procedure in Form 4 of Schedule I for that purpose.

(2) Where the Board invites submissions from interested persons pursuant to paragraph (1)(c), the Board may issue a public notice which shall be in Form 5 of Schedule I.

(3) Notwithstanding that the Board has invited submissions from interested persons pursuant to paragraph (1)(c), the Board may determine that the application shall be disposed of by means of a public hearing in which case the procedure prescribed in Part III shall apply.

(4) Submissions from any interested person shall be filed with the Secretary and served on the applicant in the form of a letter of intervention that describes the nature of the intervenor's interest in the application and clearly states his views regarding the application together with any relevant information that may be useful in explaining or supporting those views.

(5) The applicant may, where he has been served with a letter of intervention, file a reply with the Secretary and serve a copy of it on the intervenor.

On-going Procedures

41. Where any decision or order of the Board in respect of any application contemplates that the decision or order will give rise to further proceedings before the Board, the Board may issue directions on procedure with respect to the disposition of such proceedings.

PART V

REVIEW APPLICATIONS

Applications

42. (1) An application for review or re-hearing pursuant to subsection 17(1) of the Act shall be filed in writing with the Secretary.

(2) An application pursuant to subsection (1) shall contain a clear and concise statement of the facts, the nature of the order or decision applied for, and the grounds that the applicant considers sufficient

(a) in the case of an application for review, to raise a doubt as to the correctness of the order or decision including

(i) any error of law or jurisdiction,

(ii) changed circumstances that have arisen since the issuance of the order or decision,

(iii) new facts that have arisen since the issuance of the order or decision, and

(iv) facts that were not placed in evidence in the original proceeding and that were not discoverable by reasonable diligence; and

(b) in the case of an application for re-hearing, to justify a re-hearing including

(i) any error of law or jurisdiction,

(ii) changed circumstances that have arisen since the original proceeding,

(iii) new facts that have arisen since the original proceeding, and

(iv) facts that were not placed in evidence in the original proceeding and that were not discoverable by reasonable diligence.

(3) The applicant shall serve a copy of his application on every person who was a party to the original proceeding.

Answer

43. (1) A party who has been served with a copy of an application for a review or re-hearing may, within 20 days of receipt of the application, submit a written statement containing his answer.

(2) An answer shall be filed with the Secretary and served upon the applicant and all parties to the original proceeding.

Reply

44. (1) An applicant who has been served with an answer may, within 10 days after receipt of the answer, submit a written statement containing his reply.

(2) A reply shall be filed with the Secretary and served upon all parties to the original proceeding.

Documents in Support

45. Any document which a party may wish to submit in support of an application, answer, or reply shall accompany the pleading in question and be filed with the Secretary and served upon all parties to the original proceeding.

Determination

46. (1) Subject to subsection (3), the Board shall determine in respect of any application for a review of an order or decision, whether that order or decision should be reviewed and if it finds that the order or decision should be reviewed, it may then, in its discretion, either dispose of the application or issue directions on procedure with respect to the conduct of the review.

(2) Subject to subsection (3), the Board shall determine in respect of any application for a re-hearing, whether the matter should be re-heard and, if it finds that the matter should be re-heard, it shall issue directions on procedure with respect to the re-hearing.

(3) The Board will not determine that an order or decision should be reviewed pursuant to subsection (1) or that a matter should be re-heard pursuant to subsection (2) until the times prescribed by subsections 43(1) and 44(1) have expired.

Application for Stay

47. (1) Concurrently with the filing of an application for review, an applicant may apply to the Board for an order staying the order or decision which is sought to be reviewed pending the outcome of the application for review.

(2) Concurrently with the filing of an application for a rehearing, an applicant may apply to the Board for an order staying the proceeding in respect of which a rehearing is sought pending the outcome of the application for rehearing.

(3) Concurrently with the filing of an application for leave to appeal to the Federal Court of Appeal pursuant to subsection 18(1) of the Act, an applicant for leave to appeal may apply to the Board for an order staying the order or decision in respect of which leave to appeal is sought pending the outcome of the appeal.

(4) An application for a stay shall be in writing filed with the Secretary and served, as the case may be, on all parties to the original proceeding or

all parties to the proceeding giving rise to the order or decision in respect of which leave to appeal is sought.

(5) Any party who wishes to answer an application made pursuant to this section shall file with the Secretary and serve on all parties to the original proceeding a written answer within 20 days of receipt of the application.

(6) The applicant may, where he has been served with an answer, file with the Secretary and serve on all parties to the original proceeding a written reply within 10 days of receipt of the answer.

Clarification

48. Notwithstanding anything in this Part, an application to reconsider an order or decision of a procedural nature made in the course of a proceeding, other than a decision to adjourn a public hearing for a period in excess of 60 days or for an unspecified period, may be made by notice of motion pursuant to section 24.

PART VI

APPROVAL OF PLAN, PROFILE AND BOOK OF REFERENCE

49. Sections 8 and 22, sections 28 to 37, subsection 38(2), and sections 40 and 41 do not apply to proceedings under this Part.

50. For the purpose of sections 51 to 55, "applicant" means a company that makes an application for approval of a plan, profile and book of reference under section 29 of the Act.

51. (1) Before any notice in relation to a plan, profile and book of reference is served or published by an applicant under section 29.1 of the Act, the applicant shall

(a) submit to the Board for approval as to form a sample notice for service and a sample notice for publication, including for each such notice a sample form of description of the proposed detailed route to be included in each notice; or

(b) identify in writing, for the approval of the Board, a form of notice or forms of notices previously approved by the Board that it proposes to serve or publish in relation to the plan, profile and book of reference.

(2) Unless an alternative form of notice is approved in advance by the Board, the description of the proposed detailed route of the pipeline forming part of a notice for service on an owner of lands under section 29.1 of the Act shall include a plan of the lands proposed to be acquired, drawn with reference to legal survey points if such points are available, that is of a scale sufficient to identify with reasonable accuracy the location, dimensions and area of the lands in relation to the remaining adjacent lands of the owner, if any.

(3) Unless an alternative form of notice is approved in advance by the Board, the description of the proposed detailed route of the pipeline forming part of a notice for publication under section 29.1 of the Act shall include

(a) a plan of a scale sufficient to represent with reasonable accuracy, having regard to the terrain and degree of habitation in the area, the location of the proposed detailed route in relation to prominent topographical features, population centres, highways, utilities and other such prominent local landmarks; and

(b) a schedule listing sequentially the names of each registered owner in fee simple of the lands proposed to be acquired within the area covered by the plan and identifying the lands of each such owner by such legal designations of land, including the municipal address, parcel number, registered plan number, lot, concession, township, parish, range, county or other equivalent land divisions, as are sufficient to identify the lands of each such owner.

(4) The submission required under subsection (1) shall include

(a) a copy of each plan described in paragraph 3(a) that is proposed to be published,

(b) a statement that shows for each such plan the size of the area covered by the plan and the population densities in the area; and

(c) a statement of the names of the publications in which it is proposed to publish the notice and the number of issues of each such publication in which it is proposed to publish such notice.

(5) Each notice published under section 29.1 of the Act shall identify a location within or near the area covered by the plan where the plans, profiles and books of reference for that area are available for inspection unless the Board directs that the notice need not identify such a location.

(6) The notices served or published under section 29.1 shall not depart in any material respect from the forms approved by the Board.

52. If a notice referred to in paragraph 29.1(1)a of the Act cannot be served by personal service in any manner permitted by the general rules of practice in the Federal Court of Canada, the applicant wishing to serve the notice may apply to the Board for an order under the National Energy Board Substituted Service Regulations.

53. A person who files with the Board a written statement under subsection 29.1(2) or (3) of the Act in relation to a proposed detailed route of a pipeline described in a notice served or published by an applicant shall send concurrently, by registered mail, a copy of the statement to the applicant at the address shown in the notice.

54. Forthwith upon completion by an applicant of the service and publication of notices under section 29.1 of the Act in relation to a plan, profile and book of reference, the applicant shall notify the Board in writing of the dates of the last such service and publication.

55. (1) Upon the fixing by the Board under subsection 29.2(1) of the Act of a hearing date respecting a plan, profile and book of reference submitted to the Board by an applicant, the Secretary shall send to the applicant a copy of the names and addresses of persons who have filed written statements with the Board in respect of that plan, profile and book of reference, and the applicant shall upon receipt thereof forthwith send by registered mail to each such person a copy of the order of the Board.

(2) The applicant referred to in subsection (1) shall file at the hearing held under subsection 29.2(3) of the Act proof of compliance with subsection (1) and with subsection 29.1(1) of the Act.

Costs

56. Sections 57 and 58 apply to the costs referred to in section 29.6 of the Act in relation to a public hearing held under subsection 29.2(3) of the Act.

57. A person who has made representations to the Board at a public hearing held under subsection 29.2(3) of the Act shall prepare an itemized statement of the actual costs reasonably incurred by that person for the purposes of the hearing and shall send concurrently by registered mail a copy of the statement to the Secretary and to the company whose pipeline route is affected by the hearing.

58. (1) Where a person sends a statement of costs to a company in accordance with section 57 and the company does not pay in full the costs itemized in the statement within 60 days of the date of mailing of the statement, that person may request the Board to fix the amount to be paid by the company.

(2) A company that receives a statement of costs in accordance with section 57 may at any time after receipt thereof request the Board to fix the amount to be paid by the company.

(3) A request referred to in this section shall be in writing and the person or company making the request shall send concurrently by registered mail a copy of the request to the Board and to the other party.

(4) The Board may appoint a member of its staff to mediate between the parties involved in a request to the Board under this section with a view to obtaining an agreement as to the amount of costs to be paid by the company but if no agreement is reached within 20 days following the appointment of the mediator, the Board shall upon notice to the parties commence proceedings to fix the amount to be paid.

PART VII

RIGHT OF ENTRY TO LANDS

59. Section 8 and sections 28 to 41 do not apply to proceedings under this Part.

60. A company that wishes to apply to the Board for an order under section 75.26 of the Act shall,

(a) forthwith after the completion of service on the owner of lands of a notice referred to in subsection 75.26(2) of the Act, file a copy of the notice with the Board, and

(b) forthwith after the service on the owner of the lands of the schedule referred to in paragraph 61(b), file a copy of the schedule with the Board.

61. An application under section 75.26 of the Act shall include

(a) proof that the notice referred to in subsection 75.26(2) of the Act has been served on the owner of the lands by personal service in any manner permitted by the general rules of practice in the Federal Court of Canada or in any manner ordered by the Board under the National Energy Board Substituted Service Regulations, within the time referred to in that subsection;

(b) a schedule proposed to be made part of the order sought from the Board that contains, in registrable form, a description of

(i) the lands in respect of which the order is sought,

(ii) the right, title or interest applied for in respect of the lands, and

(iii) any rights, obligations, restrictions or other terms and conditions proposed to attach to the right, title or interest, to any remaining interest or interests, or to any adjacent lands of the owner;

(c) if the notice referred to in subsection 75.26(2) of the Act has been served on the owner of the lands by personal service, proof that the schedule referred to in paragraph (b) has been served on that owner not less than 20 days prior to the date on which the application is made to the Board; and

(d) a current abstract of title to the lands or a certified copy of the certificate of title to the lands.

62. (1) An owner of lands in respect of which an application under section 75.25 of the Act has been made by a company who sends to the Board an objection in writing referred to paragraph 75.26(2)(c) of the Act shall send concurrently, by registered mail, a copy of the objection to the company at the address shown in the notice served on the owner by the company.

(2) A company that receives a written objection referred to in subsection (1) may file with the Board a written response to the objection or shall inform the Board in writing that it does not wish to respond to the objection.

SCHEDULE I

FORMS

FORM 1

Subpoena

(Coat of Arms)

NATIONAL ENERGY BOARD

CANADA

IN THE MATTER OF

TO

You are hereby required to attend before the Board at the
of _____ in the Province of _____ on _____ day,
the _____ day of _____ 19 _____ at the hour of _____ o'clock in the
noon, and so from day to day until the above matter is heard, to give evidence
on behalf of _____ and also to bring with you and produce at the time
and place aforesaid the following documents, VIZ: (specify documents)

IN WITNESS WHEREOF this Subpoena is signed for the National Energy Board by
its Secretary at Ottawa, Ontario, this _____ day of _____ 19 _____.

(SEAL)

Secretary

(The following shall be endorsed on the subpoena:

NOTE: Subsection 20(3) of the NEB Rules of Practice and Procedure provides as
follows:

"No one served by a party with a subpoena is required
to appear before the Board pursuant to such subpoena
unless there has been paid or tendered to him conduct
money in an amount sufficient for his reasonable fees
and travelling expenses, if any.")

FORM 2

Directions on Procedure under Part III

(file number)

(date)

(style of cause)

Directions on Procedure

(Name of applicant) has applied to the National Energy Board for (describe type of application). Having considered the application, the Board directs as follows:

1. The applicant shall deposit and keep on file, for public inspection during normal business hours, a copy of the application (in its offices, if applicable) at (insert location(s)).
2. Interventions and letters of comment are required to be filed by (date).
3. The Secretary will issue a list of intervenors shortly after (date).
4. Information requests addressed to the applicant or any other party to the proceeding are required to be filed and served by (date).
5. Responses to information requests received within the specified time limit shall be filed with the Board and served on all other parties to the proceeding by (date).
6. Intervenor written evidence is required to be filed and served by (date).
7. The public hearing shall commence at (location) on (day, date, time).
(Note: Where a pre-hearing conference is to be held, paragraph 7 would be renumbered 8, paragraphs 8, 9, and 10 below would be renumbered 9, 10 and 11, and a new paragraph 7 would be inserted as follows:

"7. A pre-hearing conference is scheduled to take place at (location) on (day, date, time).")
8. The applicant shall serve a copy of the attached public notice forthwith on the following: (insert names).
9. The publications in which the applicant is required to publish the public notice are as follows: (insert names).

(Note: Where directions are given, for example, with respect to the issues to be heard or the phases in which the hearing is to be conducted, they shall be inserted here and paragraph 10 below would be renumbered accordingly.)

10. These Directions supplement the NEB Rules of Practice and Procedure.

(name)

Secretary

FORM 3

Public Notice under Part III

NATIONAL ENERGY BOARD

NOTICE OF PUBLIC HEARING

(NAME OF COMPANY, STYLE OF CAUSE)

The National Energy Board will conduct a hearing into an application by (Name of Applicant) pursuant to (Parts) of the National Energy Board Act for (Describe Application). The hearing will commence (Date, Time, Location).

The hearing will be public and will be held to obtain the evidence and relevant views of interested parties, groups, organizations, and companies on the application.

Anyone wishing to intervene in the hearing must file a written intervention with the Secretary of the Board and serve a copy on the Applicant. The Applicant will mail a copy of the application to each intervenor.

Anyone wishing only to comment on the application should write to the Secretary of the Board and send a copy to the Applicant at (Name and Address of Applicant).

The deadline for receipt of either written interventions or comments is (Date). The Secretary will then issue a list of intervenors.

Information on the procedures for this hearing (Reference Number) or the Rules of Practice and Procedure governing all hearings (both documents available in English and French) may be obtained by writing to the Secretary or telephoning the Board's Information Services at (telephone number).

(name)
Secretary
National Energy Board
(address)

(date)

FORM 4

Directions on Procedure Pursuant to Section 43

(file number)

(date)

(style of cause)

Directions on Procedure

(Name of applicant) has applied to the National Energy Board for (describe type of application). Having considered the application, the Board directs as follows:

1. The applicant shall deposit and keep on file, for public inspection during normal business hours, a copy of the application (in its offices, if applicable) at (insert location(s)).
2. Letters of intervention are required to be filed with the Board and served on the applicant by (date).
3. Any reply to a letter of intervention is required to be filed with the Board and served on the intervenor by (date).
4. The applicant shall serve a copy of the application and these Directions on Procedure forthwith on the following: (insert names).

(Note: Where the Board issues a public notice pursuant to section 43, paragraph 5 below would be renumbered 7 and the following paragraphs would be inserted:

"5. The applicant shall serve a copy of the attached public notice forthwith on the following: (insert names).

6. The publications in which the applicant is required to publish the public notice are as follows: (insert names)."

5. These Directions supplement the NEB Rules of Procedure.

(name)

Secretary

FORM 5

Public Notice Pursuant to Section 43

Ottawa, (date)
(name of applicant, style of cause, file number)

The National Energy Board has received an application from (name of applicant) for (describe type of application).
(Provide a summary of the application or the proposed issue.)

INTERVENTIONS

Any interested person who wishes to comment on this application may do so by sending or delivering by hand a letter of intervention to the Secretary of the Board with a copy thereof to the applicant on or before (date). The addresses to be used are Secretary, NEB (address) and (address of the applicant). Copies of any reply from the applicant to a letter of intervention shall be sent or delivered by hand to the Board with a copy to the intervenor on or before (date).

FURTHER INFORMATION

For additional information on the application, the locations at which the application may be inspected, or the procedure to be followed please contact (name of applicant) or (name and title) NEB at (address and telephone number).

(Note: Two alternate texts are provided for the concluding section of the notice.)

TEXT A

The Board will dispose of the application on the basis of the written material before it.

TEXT B

Depending on the nature of the interventions and replies received within the time periods set out above, the Board will determine whether or not a public hearing will be held to deal with the application. All interested persons who have expressed an interest in the application will be notified by the Board should a public hearing be convened. In the event that a public hearing is not held, the Board will dispose of the application on the basis of the written material before it.

(date)

(name)
Secretary
National Energy Board
(address)

SCHEDULE II

(This Schedule will contain the information requirements presently contained in the Board's Rules as amended in accordance with proposals which have been issued for comment under separate cover. The numbering of the Parts corresponds as follows:

Part I	Existing Part I
Part II	Existing Part II
Part III	Existing Part III
Part IV	Existing Part VII
Part V	Existing Part V
Part VI	Existing Part VI
Part VII	Proposed New Part VIII
Part VIII	Proposed New Part IX
Part IX	Proposed New Part X

The existing Part IV has been deleted in consequence of the deletion of the expedited hearing procedures. The new provisions in the Act regarding interim orders have made the expedited hearing procedures unnecessary.)

Schedule II (cont.)

<u>Column I</u>	<u>Column II</u>
Type of Application	Part(s) of Schedule II
1. Certificate - Gas Pipeline	I, VI, IX
2. Certificate - Oil Pipeline	II, VI, IX
3. Section 49* Order - Gas Pipeline	VI, VII, IX
4. Section 49* Order - Oil Pipeline	VI, VIII, IX
5. Abandonment of Gas or Oil Pipeline	VI
6. Certificate - International Power Line	III
7. Part IV** Order - Gas Pipeline	V
8. Part IV** Order - Oil Pipeline	IV

* Section 49 of the Act

** Part IV of the Act

(The requirement to file, in respect of a certificate application, the map required under section 28 of the Act having a scale of not less than 1:50,000 would be incorporated into the relevant parts of Schedule II.)

NOTES

(In these notes the Draft sent to parties on 7 July 1983 is referred to as the first Draft and the present Draft is referred to as the revised Draft.)

PREAMBLE:

The three objectives stated in the preamble to the first Draft have been replaced by a single objective which better reflects the Board's present approach to its procedures.

SHORT TITLE:

The revised Draft deals with matters of practice and, therefore, the reference to "Practice" has been inserted into the title.

INTERPRETATION:

Definitions of "application", "proceeding", and "party" have been added to increase the clarity of the revised Draft. The definition of "original proceeding" has been revised to accord more closely with subsection 17(1) of the Act. The definition of "regulations" has been added.

APPLICATION OF RULES:

Subsection 3(1) has been revised to express the intent in simpler fashion. The intent of this section is that the Rules apply to every proceeding before the Board under the Act or the regulations subject to the exceptions stated in subsection 3(2). There have been minor revisions to subsection 3(2).

EXTENSION OF RULES:

There have been only minor style revisions to this section.

DISPENSING WITH PROCEDURE:

There have been only minor style revisions to this section.

DIRECTIONS ON PROCEDURE:

There have been only minor style revisions to this section.

EXTENDING OR ABRIDGING TIME:

There have been no revisions to this section. (Section 8 of the first Draft, Register, has been deleted.)

SERVICE:

This was section 8 in the first Draft. Subsection (2) has been deleted since that subsection created considerable confusion in interpreting the intent of the section. The intent of the section is that any means of service may be used but any document to be served shall indicate in some fashion the persons

upon whom it is required to be served. This will enable the Board to determine in each case that the person serving the document has addressed his mind to the requirements of service. Subsections (3) and (4) of the first Draft have been renumbered as subsections (2) and (3). These subsections have been revised to better reflect the intent of the section and the Board's present practice.

FILING DATES:

Section 10 of the first Draft has been renumbered as section 9. The section has been revised to better reflect its intent.

AFFIDAVITS:

Section 11 of the first Draft has been renumbered as section 10. There have been no other revisions to this section.

VERIFICATION: Section 12 of the first Draft has been renumbered as 11. Subsection (1) has been revised to improve its clarity. Subsection (2) has been revised to provide that where a document is not verified in accordance with the section then the document shall be set aside.

FAILURE TO COMPLY:

Section 13 of the first Draft has been renumbered as 12 and the heading, Stay of Proceeding, has been changed. Otherwise there have been no revisions.

FORMULATION OF ISSUES:

Section 14 of the first Draft has been renumbered as section 13 and substantially revised to better reflect the situations in which the Board may formulate issues in a proceeding. The intent is to capture the broad power which the Board presently exercises in this area.

QUESTIONS OF LAW:

Section 15 of the first Draft has been renumbered as 14. There have been minor revisions for style.

CONFERENCE:

Section 16 of the first Draft has been renumbered as 15. The preamble to the section has been revised in the interests of simplicity. There have been minor revisions to paragraphs (e), (f), and (g).

PRODUCTION OF DOCUMENTS:

Section 17 of the first Draft has been renumbered as section 16. Subsection (1) has been revised to better reflect the intent. The subsection also now provides that a copy of the requested document shall be provided upon payment of the reasonable costs of copying it. There have been minor revisions for style to subsection (2).

ADDITIONAL INFORMATION:

Section 18 of the first Draft has been renumbered as 17. Otherwise there have been no revisions.

INFORMATION REQUESTS:

Section 19 of the first Draft has been renumbered as 18. The coding system provided in the first Draft has been deleted. There has been a minor revision to paragraph (1)(b). Subsection (2) has been revised to provide for service on all parties to the proceeding.

RESPONSES TO INFORMATION REQUESTS:

Section 20 of the first Draft has been renumbered as 19. The reference to Form 2 in paragraph (1)(a) has been deleted and paragraph (1)(b) has been revised to provide for service on all parties to the proceeding. A new paragraph (2)(a) has been added to provide that a party may object to providing a response. This subsection has also been revised to provide for service on all parties.

SUBPOENAS:

Section 21 of the first Draft has been renumbered as 20. Subsection (1) has been revised to better reflect the process for obtaining a subpoena. Subsection (2) has been revised to provide for a form of subpoena which is now included in the revised Draft as Form 1 of Schedule I. Forms 1 and 2 of the first Draft have been deleted consequential to other revisions discussed above. A new subsection (3) has been added to provide that no one served by a party with a subpoena is required to appear pursuant to the subpoena unless he has been provided with conduct money.

[Section 22 of the first Draft, Evidence at a Hearing, has been deleted from Part I and is now incorporated in Part III.]

EVIDENCE IN OTHER PROCEEDINGS:

Section 23 in the first Draft has been renumbered as 21. The scope of the section has been widened to better reflect the Board's practice in this regard.

(Sections 24 and 25 of the first Draft, Sittings and Argument, have been deleted from this Part and have been incorporated in Part III. Subsection 25(2) which provided that the Board may limit the time permitted for oral argument has been deleted.)

FORM OF DOCUMENTS:

Section 26 of the first Draft has been renumbered as section 22. Subsection (1) has been deleted as has subsection (4). Subsection (2) has been renumbered as (1) and has undergone minor revisions for style. Subsection (3) has been renumbered as (2) and has been revised to better reflect the intent.

AMENDMENTS:

Section 27 of the first Draft has been renumbered as section 23. The section has been revised to better express the intent and to delete the reference to the Board's power to make an amendment.

NOTICE OF MOTION:

Section 28 of the first Draft has been renumbered as section 24. The section has been revised to better express the intent. In addition, a new subsection 8 has been added to clarify the situation with respect to notices of motion given during the course of a public hearing.

PUBLICATION:

Section 29 of the first Draft has been renumbered as section 25. The section has been revised in consequence of revisions to other sections of the Draft.

SUBSTANTIAL COMPLIANCE:

Section 30 of the first Draft has been renumbered as section 26 and the title has been changed from Defects in Form to Substantial Compliance. The section has also been substantially revised to achieve the same intent but with more meaningful language.

CONTEMPT:

Section 31 of the first Draft has been renumbered as section 27. Otherwise the section has not been revised.

APPLICATION IN WRITING:

Section 32 of the first Draft has been renumbered as section 28. Subsection (2) has been revised to avoid problems of interpretation with the first Draft. Subsections(1) and (3) have been revised to improve style.

CONTENTS OF APPLICATION:

Section 33 of the first Draft has been renumbered as section 29. There have been minor revisions to paragraphs (a) and (c) to improve style.

INFORMATION REQUIREMENTS:

Section 34 of the first Draft has been renumbered as section 30 and the title has been changed from Memoranda of Support to Information Requirements. The coding system in section 35 of the first Draft has been deleted and the information requirements presently in the Board's Rules have been included in the revised Draft. In addition, certain provisions with respect to exceptions to the information requirements have been incorporated in accordance with recent communications with the industry.

[Section 36 of the first Draft, Statement of Procedure, has been deleted.]

DIRECTIONS ON PROCEDURE:

Section 37 of the first Draft has been renumbered as section 31. There have been minor consequential revisions to this section.

PUBLIC NOTICE:

Section 38 of the first Draft has been renumbered as section 32. There have been minor consequential revisions to this section.

INTERVENTIONS:

Section 39 of the first Draft has been renumbered as section 33 and has been substantially revised to provide for only one type of intervention, namely, an intervention which involves an appearance at a public hearing. In addition, an attempt has been made to strengthen the requirement that an intervenor say something meaningful in the intervention. Subsection (3) has been revised to provide a right of reply by other intervenors to an intervention.

LETTERS OF COMMENT:

This section has been introduced as a consequence of the revision to the provisions with respect to interventions. The first Draft had provided for two types of intervention. One involved a letter of comment. Section 34 of the revised Draft provides that interested persons who do not wish to intervene may submit a letter of comment but the person does not thereby acquire intervenor status. The section also contains provisions to protect the rights of parties. It will be recalled that the term "party" has been defined to mean an applicant and an intervenor.

INFORMATION REQUESTS:

Section 40 of the first Draft has been renumbered as 35. This section was intended to create a right of any party to submit information requests to any other party. Through an error in drafting this was not achieved. The revised section corrects this error. In addition, greater flexibility has been provided with respect to submission of information requests after the expiry of a time limit. Subsection (2) provides that, if the parties consent, the information requests may be addressed.

APPLICATION FILE:

Section 41 of the first Draft has been renumbered as 36. The intent of the section is to ensure that parties to a public hearing have a complete copy of the material filed by the applicant. The section has been revised in consequence of other revisions to the Draft.

EVIDENCE AT A PUBLIC HEARING:

Section 42 of the first Draft has been renumbered as 37. The heading has been changed from Evidence to Evidence at a Public Hearing and section 22 of the first Draft has been incorporated with revisions. The principle changes to the revised combined sections 22 and 42 are to delete the reference to "memoranda of evidence" and substitute the term "written evidence" which is

more in accord with the Board's present practice. The intent of subsection 42(1) of the first Draft has been made more explicit in subsection 37(6) of the revised Draft.

SITTINGS:

Section 24 of the first Draft has been renumbered 38. There have been minor revisions for style.

ARGUMENT:

Section 25 of the first Draft has been renumbered as 39. There have been minor revisions for style.

NON-HEARING PROCEDURES:

Section 43 of the first Draft has been renumbered as 40. Subsection (3) has been added to clarify the possibility that the Board may initiate a public hearing even though, at first, it initiated a non-hearing procedure. Subsection (5) has been added to provide a right of reply by the applicant. There have been other revisions for style and paragraph 40(1)(b) has been revised to delete a reference to "any other person".

(Section 44 of the first Draft, Follow-up Procedures, has been deleted since such procedures could be included under the heading On-going Procedures.)

ON-GOING PROCEDURES:

Section 45 of the first Draft has been renumbered as 41. There have been no other revisions.

REVIEW APPLICATIONS APPLICATIONS:

Section 46 of the first Draft has been renumbered as 42. The section has been revised to delete references to the persons who may make an application for a review or a re-hearing since the Act contains no restrictions on the persons who may make such an application. The section has also been revised to distinguish the grounds for a review from the grounds for a re-hearing. The grounds have also been revised in the interests of clarity. In addition, the reference as a ground to "any important matter of principle" has been deleted.

ANSWER:

Section 47 of the first Draft has been renumbered as 43. Apart from consequential revisions, the section has been revised to improve its clarity and consistency with other provisions of the Rules.

REPLY:

Section 48 of the first Draft has been renumbered as 44. The section has been revised in similar fashion to the immediately preceding section.

DOCUMENTS IN SUPPORT:

Section 49 of the first Draft has been renumbered as 45. There have been no other revisions.

DETERMINATION:

Section 50 of the first Draft has been renumbered as 46. Apart from consequential revisions, the major change is found in subsection (3) which provides that the Board shall not grant a review or re-hearing before giving parties an opportunity to make their written submissions. This was implicit in the first Draft and is now explicit.

APPLICATION FOR STAY:

Section 51 of the first draft has been renumbered as 47. Subsection (2) has been added to deal with the situation where a stay is requested in connection with an application for a re-hearing. Subsections (5) and (6) have been added to specify a right of answer and reply.

CLARIFICATION:

Section 52 of the first Draft has been renumbered as 48. There have been minor revisions to the section in the interests of simplicity and style.

PART VI AND PART VII:

These Parts were unchanged in the first Draft from the Rules recently made by the Board with respect to proceedings pursuant to sections 29.1 and 75.26 of the Act. Apart from re-numbering, there have been no changes to these Parts from the first Draft.

SCHEDULE I

FORM 1:

A form of subpoena has been added in the revised Draft. The form is based on the form of subpoena presently used by the Board. The reference to subsection 20(3) has been added.

(Forms 1 and 2 of the first Draft have been deleted in consequence of other revisions.)

FORM 2:

Form 3 of the first Draft has been renumbered as Form 2. A reference to intervenor written evidence was omitted in the first Draft. This has been corrected and is found in paragraph 6 of Form 2. There have also been consequential revisions to paragraphs 2, 3, 7, 8, and 10.

FORM 3:

Form 4 of the first Draft has been renumbered as Form 3. The longer Form found at pages 27 and 28 of the first Draft has been deleted in favour of the shorter Form found at page 28A of the first Draft. There have been consequential revisions to the Form.

FORM 4:

Form 5 of the first Draft has been renumbered as Form 4. There have been consequential revisions to the preamble to the Form, paragraph 3, and alternative paragraph 5.

FORM 5:

Form 6 of the first Draft has been renumbered as Form 5. There have been minor style revisions to the Form and the Form has been shortened to delete the explanation of what a letter of intervention should contain.



Our File: G132-27

23 January 1985

To: Interested Parties

NATIONAL ENERGY BOARD: REGULATION OF SMALL PIPELINES

The Board has conducted a review to determine the level of detail at which it should regulate small pipelines and considers that its current approach to pipeline regulation can be simplified for small pipelines without jeopardizing the public interest.

This letter describes the approach the Board intends to take in regulating small pipelines and sets out steps which are being implemented to tailor the regulatory requirements to a level which is more appropriate for small pipelines. The information contained herein will assist companies who currently, or may in the future, own and operate small pipelines, in complying with NEB regulatory requirements.

This approach will apply to the existing small pipelines which are operated by the companies listed in Schedule A and to any similar new pipelines. Excluded are those pipelines which the Board considers require more active regulation.

The Board's proposed approach is set out below:

- (i) Schedule B outlines the Board's proposed approach to regulating small pipelines as regards design, construction and operation. This guide is intended to simplify the application procedures by setting out in summary form the minimum requirements that a company must normally meet to design, construct and operate a small pipeline. The requirements are applicable to new facilities or to the replacement or upgrading of existing facilities.
- (ii) Schedule C outlines the Board's proposal to regulate the tolls and tariffs of small pipeline companies on a complaint basis. Generally, under this approach detailed information in support of a tariff filing would be required only after a complaint is registered or at the Board's specific request. Schedule C also identifies certain proposed reductions in the financial reporting and accounting requirements for small pipeline companies.

... 2

Full implementation of these initiatives will require amendments to the Board's Regulations and this work is in progress. The existing Oil and Gas Pipeline Regulations are being amended and incorporated into the new Onshore Pipeline Regulations. These Onshore Regulations have been approved in principle recently by the Board, and were released on 13 December 1984. The Uniform Accounting Regulations and the Toll Information Regulations will also require amendments.

The Board believes that its proposed initiatives will meet the concerns of small pipeline companies while ensuring that the public interest is fully protected.

Before implementing the new procedures the Board would like to receive comments from interested parties. Please provide any comments by 28 February 1985.

Yours truly,

A handwritten signature in dark ink, appearing to read "G. Yorke Slader". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

G. Yorke Slader
Secretary

Attachment

COMPANIES OPERATING SMALL PIPELINES REGULATED BY
THE NATIONAL ENERGY BOARD*

GAS

1. Amoco Canada Petroleum Company Ltd.
2. Canadian-Montana Pipe Line Company
3. Champion Pipe Line Corporation Ltd.
4. Consolidated Pipe Lines Company
5. Dome Petroleum Limited
6. ICG Transmission Holdings Ltd.
7. Many Islands Pipe Lines (Canada) Limited
8. Mid-Continent Pipelines Limited
9. Minell Pipeline Ltd.
10. Murphy Oil Company Ltd.
11. Niagara Gas Transmission Limited
12. Peace River Transmission Company Limited
13. Saskatchewan Power Corporation
14. Union Gas Limited
15. Western Decalta Petroleum (1977) Limited

OIL AND PRODUCTS

1. Aurora Pipe Line Company
2. Dome Kerrobert Pipeline Ltd.
3. Dome NGL Pipeline Ltd.
4. Dome NGL Pipeline Ltd. and Amoco
Canada Petroleum Company Ltd.
5. Esso Resources Canada Limited
6. Manito Pipelines Ltd.
7. Montreal Pipe Line Limited
8. Mont Resources Company Limited
9. Murphy Oil Company Ltd.
10. Northwest Transmission Company Ltd.
11. Petroleum Transmission Company
12. Sun Canadian Pipe Line Company Limited
13. Wascana Pipe Line Ltd.
14. Westspur Pipe Line Company
15. Yukon Pipelines Ltd.

* A brief description of these pipelines is provided on the following pages.

DESCRIPTION OF SMALL PIPELINES UNDER NEB JURISDICTION

GAS

1. Amoco Canada Petroleum Company Ltd.

- The Amoco system, known as the Beaver River Gas Gathering System, connects their gas well in the Yukon Territory to their gas plant in Northern British Columbia where gas is sold to Westcoast Transmission. The system consists of two parallel 60 mm lines of approximately 6.7 km in length for the transmission of fuel gas and water respectively, as well as a parallel line for gas transmission. This parallel line consists of approximately 2.1 km of 168 mm line, 1.1 km of 219 mm line and 3.5 km of 457 mm line.

2. Canadian-Montana Pipe Line Company

- Canadian-Montana Pipe Line Company owns and operates three separate lines in Alberta for the exportation of gas from various fields in that province to the United States. The first, the Reagan Line, measures 1.4 km with a diameter of 114 mm and carries gas from Universal Gas Co. Ltd. in Alberta to the International Border near Cardston, Alberta for delivery to Montana Power Co. The second, the Caraway Line, consists of a 6.3 km 406 mm line from NOVA to Montana Power Co. in the United States. The third, the Pendant D'Oreille Line, consists of a 29.6 km of 406 mm line from gas fields in Alberta to the Montana Power Co. system at the International Border.

3. Champion Pipe Line Corporation Ltd.

- The Champion pipeline system consists of two lines; one of approximately 96.5 km in length with 219 mm diameter extending from a take-off point on TransCanada PipeLine's mainline near Earlton, Ontario to Rouyn-Noranda, Québec, and one of approximately 2 km in length with 219 mm diameter between Thorne, Ontario and Temiskaming, Québec. Both lines tie into the Le Gaz Provincial du Nord de Québec Ltée systems.

4. Consolidated Pipe Lines Company

- The Consolidated pipeline is a 210 km line with a diameter of 406 mm. It carries gas from Northern Natural Gas in Montana, entering Canada at a point near Climax, Saskatchewan to TransCanada's compressor station #9 at Herbert, Saskatchewan. The gas is

subsequently exported at Emerson via TransCanada's pipeline into Great Lakes pipeline system in the United States.

5. Dome Petroleum Limited

- Dome Petroleum operates a 3.2 km pipeline with a diameter of 219 mm. It delivers ethane from the Empress Plant in Alberta for use as fuel in TransCanada's compressor station #2 near Burstall in Saskatchewan (currently inactive).

6. ICG Transmission Holdings Ltd.

- ICG operates a 190 km line with diameters of 114 mm, 219 mm and 324 mm separated into two portions in Canada. This system delivers gas from TransCanada's compressor station #43 near Spruce in Manitoba to the International Boundary Line east of Emerson in Minnesota in the United States. This line travels south of Lake of the Woods and re-enters Ontario at Rainy River. There, the ICG line carries the gas to Fort Frances and crosses the border again to terminate at Iroquois Falls in Minnesota.

7. Many Islands Pipelines (Canada) Limited

- The Many Islands system consists of three lines transporting natural gas from the NOVA system in Alberta to the Saskatchewan Power Corporation Gas System in Saskatchewan. These three lines consist of the following; 28.3 km Cold Lake to Beacon Hill 273 mm line, 65.3 km 406 mm Unity line and the 31.5 km Esther to Smiley 219 mm line.

8. Mid-Continent Pipelines Limited

- Mid-Continent has a 1.46 km looped line, with both loops having a diameter of 406 mm. It carries gas from the Many Islands system in Alberta to the Saskatchewan Power system in Saskatchewan.

9. Minell Pipeline Ltd.

- The Minell pipeline system transports natural gas from a connection with TransCanada PipeLines at its Compressor Station No. 25 site near Moosomin, Saskatchewan to a point in Russell, Manitoba through 69 km of 168 mm pipeline with a 0.6 km 60 mm diameter lateral to St.-Lazare, Manitoba.

10. Murphy Oil Company Ltd.

- The Murphy gas line, known as the Red Coulee Line is 0.8 km in length and has a diameter of 75 mm. This line was intended to transport gas from the Red Coulee area to a point on the International boundary between Canada and the United States. The line has remained inactive since construction due to insufficient gas supplies. There is a parallel Red Coulee oil line owned and operated by Murphy.

11. Niagara Gas Transmission Limited

- Niagara Gas owns and operates one international line and two interprovincial lines. The first line is a 14.4 km 324 mm diameter line carrying gas from TransCanada's mainline near Cornwall to the International Border into the St. Lawrence Gas Co. system. The second line is a 0.8 km 406 mm diameter line carrying gas from Ottawa Gas system in Ontario to the Gazifère de Hull system in Gatineau, Québec. The third line is a 0.3 km 324 mm diameter line delivering gas from the Gazifère de Hull system in Hull, Québec to the E.B. Eddy pulp and paper plant in Ontario.

12. Peace River Transmission Company Limited

- Peach River has three lines carrying gas from the Alberta fields to Dawson Creek in British Columbia. These lines measure 42.7 km, 9.6 km and 1.0 km in length with respective diameters of 114 mm, 168 mm and 60 mm.

13. Saskatchewan Power Corporation

- The Saskatchewan Power pipeline consists of an 18.5 km line with a diameter of 219 mm. The line carries gas from the NOVA system near Sibbald, Alberta to the Saskatchewan Power Corporation system near Hoosier in Saskatchewan. Five gathering lines have been tied into this line in Saskatchewan.

14. Union Gas Limited

- Union Gas has a 1.4 km line with a diameter of 324 mm. This line carries gas from the Panhandle Eastern Pipe Line Co. system in the United States to Ontario Natural Gas Storage and Pipelines Ltd. system near Ojibway in Southern Ontario.

15. Western Decalta Petroleum (1977) Limited

- Western Decalta's 0.3 km line with a diameter of 60 mm receives gas from the Vanalta well and carries this gas to Montana in the United States (currently inactive).

OIL

1. Aurora Pipe Line Company
 - The Aurora pipeline system consists of two parallel sections of pipeline, each 0.8 km in length and with a diameter of 219 mm and 324 mm. Both lines transport liquid hydrocarbons from the Rangeland pipeline system near Carway in Southern Alberta to the connecting pipeline system of the Continental Pipe Line Company in the United States, State of Montana.
2. Dome Kerrobert Pipeline Ltd.
 - The pipeline system consists of 153 km of 219 mm pipeline and 0.7 km of 273 mm pipeline. This system delivers a mixture of natural gas liquids from the Empress extraction plant in Alberta to the Interprovincial Pipeline Limited system near Kerrobert in Saskatchewan.
3. Dome NGL Pipeline Ltd.
 - The Dome NGL pipeline system transports a mixture of natural gas liquids and consists of
 - 12 km of 219 mm line extending from the centre of the St. Clair River to the Sarnia Pump and Meter Station,
 - 134 km section of pipeline extending from the Sarnia Pump and Meter Station to the Windsor Pump and Meter Station comprising 5.8 km of 324 mm line through 128.2 km of 273 mm line.
 - 2.4 km section of pipeline extending from the Windsor Pump and Meter Station to the centre of the Detroit River comprising 2.0 km of 324 mm line through 0.4 km of 273 mm line (river crossing).
 - one 219 mm and one 273 mm spare river crossings in the St. Clair River.
 - 0.3 km of 219 mm and 324 mm lines connecting the Dome Petroleum Fractionation Plant and the Dome NGL Pump and Meter Station in Sarnia.
4. Dome NGL Pipeline Ltd. and Amoco Canada Petroleum Company Ltd.
 - The system transports condensate and LPG from Dome's Plant in Sarnia to the Consumer's Plant in Marysville (U.S.) and condensate to the Petrosar Plant in Sarnia.

The pipeline extends for a distance of 11 km between Sarnia and Marysville and consists of a 219 mm condensate pipeline and a parallel 219 mm LPG pipeline.

A valve manifold on the 219 mm condensate pipeline, 3 km downstream from Sarnia, is connected to an 8.5 km 168 mm diameter lateral which delivers condensate to the Petrosar facilities in Sarnia.

5. Esso Resources Canada Limited

- The Esso Resources pipeline (formerly Imperial Oil Limited) known as the Boundary Lake Line has a length of 11.3 km with a diameter of 273 mm. This line moves oil, gas and water from the Boundary Lake Field in the Peace River Area, Alberta, to the Boundary Lake Gas Conservation Plant in British Columbia, where separation and gas processing takes place.

6. Manito Pipelines Ltd.

- Manito operates a 184 km heavy oil blend line with a parallel condensate line. The main heavy oil blend line has a diameter of 273 mm. The condensate line consists of 167 km of 114 mm pipeline and 17 km of 168 mm pipeline. This pipeline connects the Murphy production facilities at Blackfoot in Alberta to the Interprovincial Pipe Line system at Kerrobert in Saskatchewan.

7. Montreal Pipe Line Limited

- The Montreal pipeline system consists of three looped main lines of 323, 457 and 610 mm diameter, each 114.1 km in length. This system carries crude oil from the Portland Pipe Line at the International Border to the refinery area in Montreal East.

8. Mont Resources Company Ltd.

- Formerly Union Oil, this 0.2 km pipeline with a diameter of 51 mm carries oil from the Regan field in Alberta to the International Boundary for delivery to Union Oils pipeline in Montana.

9. Murphy Oil Company Ltd.

- The Murphy oil system consists of two lines, the Red Coulee line and the Milk River Line. Both lines originate in Southern Alberta and join together just north of the Canada-U.S. boundary. A single 89 mm diameter line, crosses the border for delivery to the Permian Corporation in Montana. The Red Coulee

line has a length of 0.76 km with a diameter of 89 mm and the Milk River line has a length of 17.7 km with a diameter of 150 mm. There is a parallel Red Coulee gas line.

10. Northwest Transmission Company Ltd.

- The pipeline consists of a 1.6 km line with a diameter of 114 mm. The line carries oil and condensate from a crude oil production battery in Amerillo, Alberta, across the Interprovincial Boundary to the oil gathering facilities of Trans-Prairies Pipelines Ltd. in British Columbia.

11. Petroleum Transmission Company

- Petroleum has a 933 km line with a diameter of 168 mm carrying Liquefied Petroleum Gas (propane and butanes in a liquid form) from the gas processing plant near Empress, Alberta to Winnipeg, Manitoba. A short 8.6 km 168 mm spur line near Regina permits transfer of product to or from Procor's storage caverns in Regina.

12. Sun-Canadian Pipe Line Company Limited

- The Sun-Canadian pipeline system consists of a 3.6 km 219 mm diameter line extending from the Sun Pipe Line system at the International Boundary in the St.-Clair River to the Sun Oil refinery in Sarnia. Products shipped through the line are crude oil, distillate oils, butane and propane.

13. Wascana Pipe Line Ltd.

- The pipeline system consists of 172 km of mainline and condensate line from the Regina Terminal to the Saskatchewan - U.S. border connecting into the north end of the Butte Pipeline system in the United States. The system carries heavy oil and condensate. Approximately 1.5 km of pipeline connects the Regina Terminal with IPL's pipeline facility at Regina. The diameters are 323 mm and 610 mm (currently inactive).

14. Westspur Pipe Line Company

- The main trunk line consists of a single 175.5 km 324 mm line, which runs between Midale and Steelman in Saskatchewan, and 121 km of 324 mm and 406 mm lines which run in parallel between Steelman, Saskatchewan and Cromer, Manitoba. Light and medium crude oils are shipped in the 324 mm line between Midale and

Steelman, and then through the 406 mm line to Cromer. The 324 mm line between Steelman and Cromer is completely isolated from the rest of the system and is devoted to natural gas liquids. Westspur also operates an 8.4 km export lateral with a diameter of 219 mm from Pinto in Southeastern Saskatchewan to Lignite in North Dakota (USA).

Some of the gathering system also falls under the Board's jurisdiction and this consists of 102 mm, 152 mm, 203 mm, 254 mm and 305 mm line. Most of the field piping is 102 mm and 152 mm.

15.

Yukon Pipelines Ltd.

- The system consists of a 145.6 km 114 mm diameter line carrying oil products from White Pass in British Columbia to Upper Whitehorse's tank farm in the Yukon Territory, Canada. This pipeline forms part of an integrated transportation system run by the White Pass and Yukon Corp.

NATIONAL ENERGY BOARD:
APPROACH TO THE REGULATION OF
DESIGN, CONSTRUCTION AND OPERATION OF SMALL PIPELINES*

The National Energy Board regulates the design, construction and operation of pipelines under Part III of the NEB Act, Regulations made under that Part and the Schedules to the Rules of Practice and Procedure. Currently, applicants for pipeline facilities are required to provide the information set out in the Schedules to the Rules of Practice and Procedure**. The design, construction and operation of pipelines is dealt with in the Oil and Gas Pipeline Regulations***.

Approval of an application for the construction of a pipeline more than 40 kilometres in length requires a Certificate of Public Convenience and Necessity which in turn requires a public hearing and approval of the Board's decision by the Governor in Council. Pipelines less than 40 kilometres in length, can be authorized by a Board Order without a public hearing.

In addition to the necessity of obtaining approval to build a pipeline, a separate approval is required to open a pipeline for service or to abandon, sell, or lease a pipeline.

In order to tailor the degree of regulation to the particular circumstances of a small pipeline, the Board will adopt the following approach to the regulation of the design, construction and operation of small pipelines:

I. Application for Construction

Pipeline companies wishing to apply for authority to construct and operate a small pipeline would not normally be expected to provide all of the information set out in the Schedules to the Rules of Practice and Procedure.

-
- * Small pipelines currently regulated by the Board are listed in Schedule A.
- ** Proposed revisions to the Schedules were forwarded to interested parties by letter dated 17 October 1984.
- *** These regulations are expected to be superseded by the Onshore Pipeline Regulations distributed to industry under cover of a letter dated 13 December 1984.

The Board's approach is to have the company provide the minimum information outlined below. Upon receiving that information, the Board would decide whether to (i) issue an approval order for section 49 applications (less than 40 kilometres) or proceed to a public hearing, or (ii) ask the applicant to provide any additional information the Board might require.

Reference

- | | |
|---|--|
| 1. Applicant, | |
| 2. Owner(s), | |
| 3. Operator, | |
| 4. Construction schedule, | - Rules of Practice and Procedure
Part VIII Section 2(c), Part IX
Section 2(d) |
| 5. Evidence that there is sufficient supply and market over a sustained period to justify construction of the pipeline and that the project is in the public convenience and necessity, | - Rules of Practice and Procedure
Part VIII Sections 2(b) and 2(f),
Part IX Sections 2(b) and 2(f) |
| 6. Schematic and Standard Drawings, | - Rules of Practice and Procedure
Part VI, Sections 1 and 3
Part VIII, Section 2
Part IX, Section 2
Onshore Pipeline Regulations
Sections 12, 31 and 69 to 73 |

Reference

- | | |
|---|--|
| 7. Technical description of the project with a list of materials including specifications (line pipe, valves, pumps, compressors, etc.), | - Rules of Practice and Procedure Part VIII Sections 2 to 9, Part IX Sections 2 to 7, Onshore Pipeline Regulations Part II |
| 8. Site plan with the description of the location of new land and land rights to be acquired, | - Rules of Practice and Procedure Parts VI and X, NEB Act Sections 74 and 75 |
| 9. Present zoning of the preferred site and the zoning an current

land use within 500 metres of the facilities site or right-of-way | - Rules of Practice and Procedure

Parts VI, VIII (3) and X, NEB Act Sections 74 and 75 |
| 10. An assessment of any potential potential environmental impacts within an appropriate distance of the right-of-way or of any facility site, and proposals for their mitigation, and the condition to which the right-of-way is to be restored, | - Rules of Practice and Procedure
Part VI Sections 3 to 6
Onshore Pipeline Regulations
Sections 13, 15, 52 and 53 |
| 11. Cost Estimate, | - Rules of Practice and Procedure
Part VIII Sections 1, 2(g) and 2(h),
Part IX Sections 1, 2(g) and 2(h) |
| 12. Statement of procurement policies used to ensure that Canadian firms will be given a fair and adequate opportunity to participate in engineering, material and service supply to projects (or appropriate reference to information already on file with the Board). | - Rules of Practice and Procedure
Part VIII Section 10,
Part IX Section 8 |

Reference

II. Pre-Construction

Following approval of the application for construction, but prior to commencing construction, the applicant shall normally provide the following additional information. Note that the following items 13 to 17 could be provided with the application for construction.

- | | |
|---|--|
| 13. Construction Procedures Manual, | - Onshore Pipeline Regulations

Part IV and Section 55 to 68 |
| 14. Welding procedures, | - Onshore Pipeline Regulations
Part III |
| 15. Plan, Profile and Book of Reference, | - NEB Act Sections 27(b), 29.(1), (2) and (3) |
| 16. Notice for service and publication with respect to detailed routing and land acquisition* | - NEB Act Section 29.1, Rules of Practice and Procedure
Sections 27 to 38 |

III. Construction

During construction, the applicant must normally provide the following additional information;

- | | |
|--|---|
| 17. Pressure test procedures, | - Onshore Pipeline Regulations
Part VI |
| 18. Radiographs of welds (upon Board request), | |

* Once a company has obtained authorization to build or extend an interprovincial or international pipeline, it must comply with the requirements of the Act relating to land acquisition and determination of the detailed route of the pipeline. The provisions of the Act dealing with land acquisition can be found in sections 73 and following of the Act. Those sections set out the specific requirements relating to the content of acquisition agreements, notification, and acquisition procedures. With respect to determination of detailed route of the pipeline, once facilities have been approved, the company must file plans and profiles, unless exemption from that requirement is granted under the provisions of section 49. The company should have regard to sections 29 and following of the Act which explain the requirements for notification of land owners and procedures to be followed for the determination of the detailed route.

IV. Leave-to-Open Application

Reference

Before a pipeline commences operation, the Board must be satisfied that it is in such a condition that it can be operated safely. Upon application, unless the company is exempted pursuant to Section 49 of the NEB Act, the Board issues a "Leave to Open" Order. The following information is normally required to accompany a Leave-to-Open application;

- NEB Act, Sections 26.(1) (b) and 38, Onshore Pipeline Regulations Part VII

19. A statement that all field welds have been non-destructively tested over their entire length and are acceptable to the company,
20. A statement that all backfilling has been completed,
21. An affidavit signed by a professional pipeline engineer stating that the subject pipeline was designed and constructed or repaired in accordance to the applicable standards and regulations and that the pipeline may be opened safely for transmission,
22. Test records including the following;
 - (a) test procedures,
 - (b) test equipment calibration,
 - (c) instrumentation and calibration,
 - (d) test documentation, dates and time, and
 - (e) - Pressure & Temperature Chart
 - Yield Plot (if applicable)

Reference

23. An affidavit signed by a professional pipeline engineer verifying that the subject pipeline has been pressure tested successfully in accordance with the NEB approved pressure-test procedures in item 17 above,

V. Operation

For an operating pipeline, an operator shall normally provide the following;

- | | |
|---|---|
| 24. Operation Manuals
(two copies to be placed
on deposit with the Board) | - Onshore Pipeline
Regulations
Sections 118 to 121 |
| 25. In November following the
first growing-season after
the pipeline commences
operation, a letter setting
out: | - Onshore Pipeline
Regulations
Part IX and Section
151.(2) |
| <ul style="list-style-type: none">- the general success of
environmental restoration,- detailed list of sites not
recovered to the
condition intended in 10,
and the proposed action to
be taken on those sites. | |
| 26. Engineering Reports
Description of control
and communications, system
and changes to filed drawings. | - Onshore Pipeline
Regulations
Section 152 |
| 27. Notification of any change
facilities | - NEB Act Section 49 |
| 28. Accident Reports | - Onshore Pipeline
Regulations
Sections 154 to 157 |
| 29. Annual Reporting of
Pipeline Data indicate
chages to the pipeline
system (file a nil report
where applicable). | - Onshore Pipeline
Regulations
Section 158 |

VI. Termination of Operations

Reference

- | | |
|--|---|
| 30. Applications for deactivation for periods longer than 12 month and abandonment, lease or sale of a pipeline. | - NEB Act, Section 63
Onshore Pipeline
Regulations
Sections 144 to 150 |
|--|---|

NATIONAL ENERGY BOARD:
APPROACH TO THE REGULATION OF TOLLS
AND TARIFFS OF SMALL PIPELINES*

Tolls and Tariffs

For small pipelines, the Board intends to regulate tolls and tariffs pursuant to Part IV of the National Energy Board Act on a complaint basis.

- Companies shall only charge tolls that are specified in a tariff that has been filed with the Board and is in effect.
- Companies shall provide copies of the tariff to shippers and interested parties concurrently with filing with the Board.
- Upon receipt of a written complaint, or other application under Part IV of the NEB Act, the Board will consider making the toll interim, pending further review.
- The Board on its own initiative may review a toll and request such additional information as it may require.

Under the regulation by complaint approach, small pipeline companies normally will not be required to provide the detailed toll and financial information specified in the existing Parts V and VII of the Schedule to the Board's Rules of Practice and Procedure. If, however, a complaint is received, or the Board decides on its own initiative to examine the tariff, the Board may require some or all of the information identified in Parts V and VII. Given that the pipeline companies maintain effective communications with their shippers and interested parties, and provide sufficient notice of pending changes to tariffs, the Board expects that the number of complaints will be minimized.

Financial Reporting

The Board normally will not require small pipeline companies to provide any financial information for the purpose of monitoring construction costs or tolls. The small pipelines will be exempted from the new Construction Cost and Toll Reporting Regulations when these are implemented to replace the existing Toll Information Regulations.

* Small pipelines currently regulated by the Board are listed in Schedule A.

Standard Code of Accounts

Steps are being taken to amend the NEB's Uniform Accounting Regulations to exempt small pipelines from the requirement to keep a standard code of accounts as prescribed in the regulations. The Board will require only that small pipeline companies keep a separate book of accounts in Canada in accordance with generally accepted accounting principles.



CA1
MT-76
FN-53

File No. 134-2

18 February 1985

TO ALL PARTIES ON THE BOARD'S GENERAL MAILING LISTS

Re: NEB Rules of Practice and Procedure

Over the 25 years since the existing National Energy Board Rules of Practice and Procedure were issued, the Board's regulatory procedures have developed and changed to the point where the present rules are no longer fully representative of current practices. Two years ago the Board decided that the time had come to rewrite these Rules to simplify, clarify and improve them.

With a letter dated 7 July 1983, we sent you for comment the first draft of proposed new Rules of Practice and Procedure to replace the existing rules. Following the receipt of numerous helpful and detailed comments, a second draft was issued with our letter of 21 September 1984 for any final comments.

The Board thanks all parties who responded to these letters. Following a further review, the Board has finalized a draft of the Rules and sent them to the Department of Justice for examination.

In the anticipation that this examination will take some considerable time, the Board is issuing the attached draft Rules as a guideline for the conduct of future proceedings. The draft Rules are mainly reflective of our current practices, but will involve some changes.

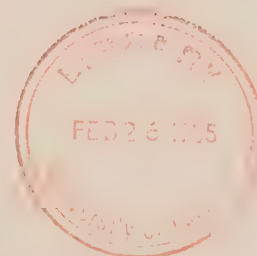
The Board believes that the new Rules will reduce the regulatory burden on all parties by simplifying and clarifying the procedures to be followed. We solicit your cooperation in their use.

Yours truly,

G. Yorke Slader
Secretary

Atts.

Canada



REVISED DRAFT

RULES OF PRACTICE AND PROCEDURE

OF THE

NATIONAL ENERGY BOARD

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NEB RULES OF PRACTICE AND PROCEDURE

Whereas the Board desires to replace the National Energy Board Rules of Practice and Procedure with new rules of practice and procedure; and

Whereas the Board desires, through its procedures, that matters which come before the Board are disposed of with regard to the requirements of fairness and natural justice, with reasonable expedition, and without unnecessary delays;

Therefore, the National Energy Board, pursuant to section 7 of the National Energy Board Act, hereby revokes the National Energy Board Rules of Practice and Procedure and makes the annexed Rules of Practice and Procedure of the National Energy Board effective .

RULES OF PRACTICE AND PROCEDURE OF THE NATIONAL ENERGY BOARD

Short Title

1. These Rules may be cited as the NEB Rules of Practice and Procedure.

Interpretation

2. In these Rules,

"Act" means the National Energy Board Act;

"affidavit" includes a written affirmation;

"application" means any application to the Board under the Act or the regulations and includes a complaint;

"Board" means the National Energy Board;

"complaint" means a complaint made to the Board alleging anything to have been done or omitted to be done in contravention or violation of the provisions of the Act or the regulations;

"Hearing Process Officer" means a person authorized by the Secretary to act on his behalf at a public hearing;

"information request" means any request in writing for information or particulars made to a party in a proceeding;

"original proceeding" means,

(a) in respect of an application for a review pursuant to subsection 17(1) of the Act, the proceeding giving rise to the order or decision in respect of which a review is sought, and

(b) in respect of an application for a re-hearing of an application pursuant to subsection 17(1) of the Act, the proceeding commenced by the application in respect of which a re-hearing is sought;

"party" means an applicant and an intervenor;

"proceeding" means any proceeding before the Board under the Act or the regulations;

"regulations" means any regulations made under the Act; and

"Secretary" means the Secretary to the Board and anyone authorized by the Secretary to act on his behalf.

Application of Rules

3. (1) Subject to subsection (2) and section 4, these Rules apply to every proceeding.

(2) These Rules do not apply to any proceeding commenced by an application for leave to open a pipeline or section thereof under section 38 of the Act, to any proceeding commenced by an application under the National Energy Board Substituted Service Regulations, or to any proceeding under Part II of the Act.

Extension of Rules

4. The Board may direct by public notice, order or other appropriate means that these Rules or any of them shall apply mutatis mutandis to any proceeding to which these Rules would not otherwise apply.

PART I

GENERAL

Dispensing with Procedure

5. In any proceeding, the Board may dispense with, vary or supplement any of the provisions of these Rules.

Directions on Procedure

6. In any proceeding, the Board may issue directions on procedure which shall govern the conduct of the proceeding and prevail over any provision of these Rules that is inconsistent with those directions.

Extending or Abridging Time

7. The Board may extend or abridge the time prescribed by these Rules or otherwise prescribed by the Board and this power may be exercised although the application is not made until after the expiration of the time prescribed.

Service

8. (1) Subject to subsection (2), service of any notice or other document, including a document originated by the Board, may be effected by any means.

(2) Where a public hearing is in progress, service of any document may be effected

(a) by making copies of the document available to parties present at the public hearing, and

(b) serving a copy on any party who

(i) has not received a copy of the document, and

(ii) requests a copy.

(3) Any document required to be served shall show the names of the persons upon whom it is required to be served or shall otherwise indicate the persons upon whom it is required to be served.

(4) Subject to section 25, proof by affidavit of the means taken to effect service shall, at the request of the Board, be filed with the Secretary in respect of any document required to be served.

Filing

9.(1) Where any document is required to be filed, the date of filing shall be the date of actual receipt by the Secretary or anyone authorized by the Secretary to receive such documents.

(2) Where a public hearing is in progress, any document which is required to be filed with the Secretary shall be filed with the Hearing Process Officer present at the hearing.

Affidavits

10. (1) Affidavits in proceedings before the Board shall be filed with the Secretary.

(2) Where an affidavit is made as to belief, the grounds on which the belief is based shall be set out in the affidavit.

Verification

11. (1) The Board may, at any time, require the whole or any part of any document filed with the Board to be verified by affidavit by giving a notice to that effect to the person from whom such verification is required.

(2) Unless the Board otherwise directs, if a notice given under subsection (1) is not complied with, the document in question shall be set aside or any part thereof not verified in accordance with the notice shall be struck out.

Failure to Comply

12. Where a party to a proceeding has not complied with any requirement of these Rules or any direction on procedure issued by the Board, the Board may stay the proceeding until satisfied that such requirement has been complied with or take such other steps as it considers just and reasonable.

Formulation of Issues

13. In any proceeding, the Board may

(a) where the documents filed with the Board do not sufficiently raise the matters in issue in the proceeding,

(b) where it would assist the Board in the conduct of the proceeding, or

(c) where it would assist parties to participate more effectively in the proceeding

formulate issues which shall be considered by it in the proceeding and, for this purpose, may direct parties to propose issues which, if not agreed to by all the parties, shall be settled by the Board.

Questions of Law

14. If it appears to the Board at any time that there is a question or issue of law, or jurisdiction or of practice or procedure that should be decided before a proceeding is continued, the Board may

(a) direct the question or issue to be raised for a determination by the Board or

(b) direct the question or issue to be referred to the Federal Court of Appeal for decision

and the Board may, pending the determination of such question, order the whole or part of the proceeding to be stayed.

Conference

15. The Board may convene a conference with parties, or may direct parties to make submissions in writing, for the purpose of formulating issues and considering

- (a) the simplification of issues,
- (b) the necessity or desirability of amending an application, answer, intervention or reply for the purpose of clarification, amplification or limitation,
- (c) the admission of certain facts or the proof of them by affidavit, or the use by any party of documents of a public nature,
- (d) the settling of matters connected with information requests,
- (e) the procedures to be adopted in the proceeding,
- (f) the mutual exchange among the parties of documents and exhibits, and
- (g) any other matters that may aid in the simplification and disposition of the proceedings.

Production of Documents

16. (1) Where in any application, notice of motion, answer, intervention, reply, or response to an information request a party refers to a document which the party intends to rely on in the proceeding, any party to the proceeding may request that the document be produced for inspection and copying by the party making the request or may, subject to payment of the reasonable costs of reproduction, request a copy of the document.

(2) Any party who fails to comply with a request given to him pursuant to subsection (1) within 10 days from the receipt thereof shall not thereafter be at liberty to put the requested document in evidence on his behalf in the proceeding, unless he satisfies the Board that he had sufficient excuse for his default.

Additional Information

17. At any time in any proceeding, the Board may require any party to provide such further information, particulars or documents as the Board deems necessary to enable the Board to obtain a full and satisfactory understanding of the subject-matter of the proceeding.

Information Requests

18. (1) Where in these Rules or in any direction on procedure issued by the Board information requests are permitted to be directed to a party, such information requests shall be

- (a) addressed to the party;
 - (b) numbered consecutively in respect of each item of information requested; and
 - (c) served, where the Board has directed a time limit, within the time limit directed by the Board.
- (2) A copy of any information requests directed to a party pursuant to subsection (1) shall be filed with the Secretary and served on all parties to the proceeding.

Responses to Information Requests

19. (1) Subject to subsection (2), where in these Rules or in any direction on procedure issued by the Board information requests are permitted to be directed to a party and information requests have been served on the party, the party shall

(a) subject to any time limit which the Board may direct, provide a full and adequate response to each information request on a separate page or pages; and

(b) file with the Secretary and serve on all parties to the proceeding a copy of the responses.

(2) Subject to any time limit which the Board may direct, a party who is unable or unwilling to provide a full and adequate response to an information request shall

(a) where the party objects to providing the information requested, provide a response stating the objection and setting out the grounds therefor; or

(b) where the party contends that the information necessary to provide a response is not available, provide a response that sets out the reasons for the unavailability of such information and provide alternative available information that the party considers would be of assistance to the person directing the information request, and

(c) file with the Secretary and serve on all parties to the proceeding a copy of the response provided.

Subpoenas

20. (1) A subpoena may be obtained by a party on request from the Secretary, shall be signed by the Secretary and sealed by the Secretary with the Board's seal and may be served by the party in any part of Canada.

(2) A subpoena shall be in Form 1 of Schedule I and may be issued in blank, may be completed by the solicitor or party on whose behalf it is issued and may contain the names of any number of persons required to appear before the Board.

(3) No one served by a party with a subpoena is required to appear before the Board pursuant to such subpoena unless there has been paid or tendered to him conduct money in an amount sufficient for his reasonable fees and travelling expenses, if any.

Evidence in Other Proceedings

21. Subject to subsection 29(6), in any proceeding, information or evidence received

(a) in another proceeding before the Board, or

(b) by any board, commission or tribunal of a province, a territory, or Canada,

or any report, finding or order made in respect thereof may, by leave of the Board, be received in the proceeding.

Form of Documents

22. (1) Every document filed with the Board in connection with any proceeding shall be endorsed with the Board file number and a short phrase summarizing the nature of the proceeding, for example, "XYZ Company, 1982 Operating and Maintenance Budget".

(2) Where any application, intervention or other document or part thereof made or submitted by any party in connection with any proceeding is revised or amended,

(a) each revised or amended page shall

(i) indicate the date of revision or amendment and

(ii) indicate the portion of the page revised or amended with a vertical line in the right-hand margin opposite to the revision or amendment, with an asterisk, or with other similar markings, and

(b) each revision or amendment shall be accompanied by a statement explaining the nature of the amendment or revision.

Amendments

23. In any proceeding, the Board may, on condition or otherwise,

(a) allow any amendment to any document,

(b) order to be amended or struck out any document or any part thereof that may tend to prejudice, embarrass or delay a fair hearing of an application on the merits, or

(c) order any other amendment as may be necessary for the purpose of hearing and determining the real question in issue in the proceeding.

Notice of Motion

24. (1) Any matter which arises in the course of a proceeding and which requires a decision or order of the Board shall be brought before the Board by notice of motion.

(2) A notice of motion shall be in writing and may be in any form provided that it contains a clear and concise statement of the facts, the order or decision sought and the grounds therefor.

(3) A notice of motion shall be filed with the Secretary and served upon all parties to the proceeding.

(4) Unless the Board otherwise directs, the motion shall be disposed of in writing.

(5) Any party who wishes to answer the motion shall file with the Secretary and serve on all parties to the proceeding, within 10 days of receipt of the notice of motion, a written answer.

(6) The party bringing the motion may, where he has been served with an answer, file with the Secretary and serve on all parties to the proceeding, within 5 days of receipt of the answer, a written reply.

(7) Any document which a party may wish to submit in support of a notice of motion, answer, or reply shall accompany the pleading in question and shall be filed with the Secretary and served upon all parties to the proceeding.

(8) Notwithstanding subsections (2) to (7), a notice of motion given during the course of a public hearing may be given orally at the public hearing and shall be disposed of in accordance with such procedure as the panel of the Board conducting the public hearing may direct.

Publication

25. (1) Where the Board issues a public notice, the applicant shall

(a) forthwith publish the public notice in all publications specified by the Board, and

(b) forthwith serve a copy of the public notice upon such persons as the Board may direct.

(2) The applicant shall file with the Secretary proof by affidavit of publication pursuant to paragraph (1)(a) and of the means taken to effect service pursuant to paragraph (1)(b).

Contempt

26. Any person who is in contempt of the Board in the presence of a Board member conducting a public hearing may, after he has been called upon to explain his behavior, be dealt with as the Board may direct.

PART II

APPLICATIONS

Application in Writing

27. (1) Subject to section 24 and Part V, an application shall be in writing addressed to the Secretary and signed by the applicant or his authorized representative.

(2) A complaint shall be served on any person whose conduct is the subject of the complaint and such person may, within 20 days of receipt of the complaint, submit a written statement containing his answer.

(3) An answer shall be accompanied by any document which the party may wish to submit in support of the answer and shall be filed with the Secretary and served on the applicant.

Contents of Application

28. Every application shall

(a) contain a concise statement of the facts relevant to the application, the provisions of the Act or regulation under which it is made and the nature of the order or decision applied for and its purpose;

(b) be divided into consecutively numbered paragraphs, each of which shall be confined as nearly as may be practicable to a separate and distinct portion of the subject of the application; and

(c) state the name, address, telephone number and other telecommunications numbers of the applicant or of the authorized representative of the applicant to whom communications may be sent and upon whom documents may be served.

Information Requirements

29. (1) Unless the Board otherwise directs, every application identified in Column I of Table I of Schedule II shall be accompanied by the information specified in the Part or Parts of Schedule II identified in Column II of Table I of Schedule II

(2) Every application shall, in addition to the information required by subsection (1), be accompanied by any information which is required by the Act or the regulations to be submitted to the Board or which may be useful in explaining or supporting the application.

(3) Where an applicant is unable to submit in company with his application any information required by subsections (1) and (2), he shall submit with the application such information as is available at that time and shall state the time at which he intends to submit the balance of the information required.

(4) Where an applicant is unwilling to submit any information required by subsections (1) and (2) on the ground that the information is not relevant to the application, he may submit the application without the information to which objection is taken but the application shall then be accompanied, in addition to the information required by subsections (1) and (2) to which no objection is taken, by a statement setting out the objection and the grounds therefor.

(5) Where the Board does not sustain an objection taken pursuant to subsection (4), the Board shall so inform the applicant and the applicant shall submit the information in respect of which the objection has not been sustained.

(6) Where any information required by subsections (1) and (2) to be submitted to the Board is already in the possession of the Board, the applicant may submit the application without such information but the application shall then be accompanied by a statement identifying the information and the circumstances under which it came into the possession of the Board.

PART III

PUBLIC HEARINGS

Directions on Procedure

30. Directions on procedure issued by the Board under this Part shall be in Form 2 of Schedule I.

Public Notice

31. Where an application is to be disposed of by means of a public hearing, the Board shall issue a public notice in Form 3 of Schedule I.

Interventions

32. (1) Where a public notice has been given pursuant to this Part, any interested person may intervene in respect of the application by filing with the Secretary and serving on the applicant, on or before the date prescribed, a written intervention that

(a) states clearly the intervenor's intention to appear at the public hearing,

(b) sets out the name, mailing address, address for personal service and telephone number or other telecommunications numbers of the intervenor or agent authorized to receive documents on his behalf,

(c) describes the nature of the intervenor's interest in the application,

(d) subject to subsection (2), states clearly the issues which the intervenor intends to address at the public hearing or, where the intervenor does not intend to actively participate at the public hearing, states clearly the reasons why the intervenor's interest in the application requires the intervention in respect of the application, and

(e) indicates the official language in which the intervenor wishes to be heard at the public hearing.

(2) Where, by reason of an inability or insufficient time to study the application, an intervenor is unable to include in his written intervention the information required by paragraph (1) (d), the intervenor shall state this fact in his written intervention and shall, within 15 days of receipt of a copy of the application or 15 days of the filing of the written intervention, whichever is later, file with the Secretary and serve on the applicant a supplement to the written intervention containing the information required by paragraph (1) (d).

(3) An intervenor, upon being advised by the Secretary of the name and mailing address of any other intervenor, shall serve a copy of the written intervention and any supplement to the written intervention on such intervenor.

(4) The applicant and any other party may, within 15 days of receipt of a written intervention or 15 days of receipt of any supplement to the written intervention, whichever is later, serve a reply on the intervenor and shall file with the Secretary and serve on all parties to the proceeding a copy of the reply.

Letters of Comment

33. (1) Where a public notice has been given pursuant to this Part, any interested person who does not wish to intervene in respect of the application but who wishes to make his views regarding the application known to the Board may file with the Secretary and serve on the applicant, on or before the date prescribed, a letter commenting on the application which describes the nature of the person's interest in the application and states clearly his views regarding the application together with any relevant information that may be useful in explaining or supporting those views.

(2) Subject to subsection (4), a person who files a letter pursuant to subsection (1) does not thereby acquire status as an intervenor and shall not be entitled to any further notice in the proceeding.

(3) The Secretary shall provide the parties to the proceeding with a copy of any letter filed pursuant to subsection (1).

(4) The applicant and any other party to the proceeding may, within 15 days of receipt of a letter referred to in subsection (1), serve a reply on the person who has filed the letter and shall file a copy of the reply with the Secretary and serve a copy of it on every party to the proceeding.

Information Requests

34. (1) Any party to the proceeding may address information requests to any other party to the proceeding.

(2) Where the Board has directed a time limit, additional information requests may be addressed after the date prescribed only with leave of the Board or with the consent of the party to whom the information requests are addressed.

Application File

35. Unless the Board otherwise directs, the applicant shall serve each intervenor with

- (a) a copy of the application,
- (b) any information required to be submitted to the Board pursuant to section 30,
- (c) if requested to do so by the intervenor, a copy of any information not submitted to the Board pursuant to subsection 29(6), and
- (d) any directions on procedure issued by the Board.

Evidence at a Public Hearing

36. (1) Subject to subsections (5) and (6), in this section "written evidence" means the material

- (a) in written question and answer form with lines numbered, or
- (b) in written form with consecutively numbered paragraphs

intended to be presented by a party as evidence at a public hearing.

(2) Subject to subsection (3), witnesses at a public hearing shall be examined viva voce on oath or affirmation.

(3) The Board may, at any time, order that

- (a) any particular facts be proved by affidavit;
- (b) the affidavit of any witness be read at a public hearing on such conditions as the Board thinks reasonable; and
- (c) any witness be examined before a commissioner or other person authorized to administer oaths appointed by the Board for that purpose.

(4) Subject to subsections (5) and (6), any party who wishes to present evidence at a public hearing shall, prior to the appearance of any witness and within any time limit prescribed by the Board, file written evidence with the Secretary and serve a copy of it on all parties to the proceeding.

(5) Where an intervenor files and serves written evidence pursuant to subsection (4), the written evidence of the intervenor shall be deemed to include any information provided by the intervenor in the intervenor's written intervention or in any response by the intervenor to an information request.

(6) The information contained in the application, the information submitted by an applicant to the Board pursuant to section 29, the information identified by the statement referred to in subsection 29(6) and any responses by the applicant to information requests shall be deemed to constitute the written evidence of the applicant and the applicant shall not, except by leave of the Board, be at liberty to submit additional written evidence.

(7) The Board may permit the introduction of written evidence at a public hearing as the evidence in chief of a witness who confirms that the written evidence was prepared by him or under his direction and control and is accurate to the best of his knowledge or belief.

(8) Where the Board has directed a time limit, written evidence supplementing the written evidence referred to in subsection (4) or the additional written evidence referred to in subsection (6) may be filed with the Secretary and served on all parties to the proceeding after the date prescribed only with leave of the Board.

Sittings

37. (1) Where a public hearing has commenced, the public hearing shall proceed, as far as may be practicable in the opinion of the Board, from day to day but may be adjourned by the Board from time to time.

(2) The Board may, whenever circumstances render it appropriate to hold a sitting elsewhere than in the National Capital Region, hold the sitting in any part of Canada.

Argument

38. The Board may order written argument to be submitted by the parties in addition to or in lieu of oral argument.

PART IV

OTHER PROCEDURES

Non-hearing Procedures

39. (1) Where the Board does not dispose of an application by way of a public hearing, the Board may

(a) dispose of the application on the basis of the written documentation before it,

(b) require further information to be furnished by the applicant, or

(c) invite submissions from interested persons and issue directions on procedure in Form 4 of Schedule I for that purpose.

(2) Where the Board invites submissions from interested persons pursuant to paragraph (1)(c), the Board may issue a public notice which shall be in Form 5 of Schedule I.

(3) Notwithstanding that the Board has invited submissions from interested persons pursuant to paragraph (1)(c), the Board may determine that the application shall be disposed of by means of a public hearing in which case the procedure prescribed in Part III shall apply.

(4) Submissions from any interested person shall be filed with the Secretary and served on the applicant in the form of a letter of intervention that describes the nature of the intervenor's interest in the application and clearly states his views regarding the application together with any relevant information that may be useful in explaining or supporting those views.

(5) The applicant may, where he has been served with a letter of intervention, file a reply with the Secretary and serve a copy of it on the intervenor.

On-going Procedures

40. Where any decision or order of the Board in respect of any application contemplates that the decision or order will give rise to further proceedings before the Board, the Board may issue directions on procedure with respect to the disposition of such proceedings.

PART V

APPLICATIONS FOR REVIEW OR RE-HEARING

Applications

41. (1) An application for review or re-hearing pursuant to subsection 17(1) of the Act shall be filed in writing with the Secretary.

(2) An application pursuant to subsection (1) shall contain a clear and concise statement of the facts, the nature of the order or decision applied for, and the grounds that the applicant considers sufficient

(a) in the case of an application for review, to raise a doubt as to the correctness of the order or decision including

(i) any error of law or jurisdiction,

(ii) changed circumstances that have arisen since the issuance of the order or decision,

(iii) new facts that have arisen since the issuance of the order or decision, and

(iv) facts that were not placed in evidence in the original proceeding and that were not discoverable by reasonable diligence; and

(b) in the case of an application for re-hearing, to justify a re-hearing including

(i) any error of law or jurisdiction,

(ii) changed circumstances that have arisen since the original proceeding,

(iii) new facts that have arisen since the original proceeding, and

(iv) facts that were not placed in evidence in the original proceeding and that were not discoverable by reasonable diligence.

(3) The applicant shall serve a copy of his application on every person who was a party to the original proceeding.

Answer

42. (1) A party who has been served with a copy of an application for a review or re-hearing may, within 20 days of receipt of the application, submit a written statement containing his answer.

(2) An answer shall be filed with the Secretary and served upon the applicant and all parties to the original proceeding.

Reply

43. (1) An applicant who has been served with an answer may, within 10 days after receipt of the answer, submit a written statement containing his reply.

(2) A reply shall be filed with the Secretary and served upon all parties to the original proceeding.

Documents in Support

44. Any document which a party may wish to submit in support of an application, answer, or reply shall accompany the pleading in question and be filed with the Secretary and served upon all parties to the original proceeding.

Determination

45. (1) Subject to subsection (3), the Board shall determine in respect of any application for a review of an order or decision, whether that order or decision should be reviewed and if it finds that the order or decision should be reviewed, it may then, in its discretion, either dispose of the application or issue directions on procedure with respect to the conduct of the review.

(2) Subject to subsection (3), the Board shall determine in respect of any application for a re-hearing, whether the matter should be re-heard and, if it finds that the matter should be re-heard, it shall issue directions on procedure with respect to the re-hearing.

(3) The Board will not determine that an order or decision should be reviewed pursuant to subsection (1) or that a matter should be re-heard pursuant to subsection (2) until the times prescribed by subsections 42(1) and 43(1) have expired.

Application for Stay

46. (1) Concurrently with the filing of an application for review, an applicant may apply to the Board for an order staying the order or decision which is sought to be reviewed pending the outcome of the application for review.

(2) Concurrently with the filing of an application for a rehearing, an applicant may apply to the Board for an order staying the proceeding in respect of which a rehearing is sought pending the outcome of the application for rehearing.

(3) Concurrently with the filing of an application for leave to appeal to the Federal Court of Appeal pursuant to subsection 18(1) of the Act, an applicant for leave to appeal may apply to the Board for an order staying the order or decision in respect of which leave to appeal is sought pending the outcome of the appeal.

(4) An application for a stay shall be in writing filed with the Secretary and served, as the case may be, on all parties to the original proceeding or all parties to the proceeding giving rise to the order or decision in respect of which leave to appeal is sought.

(5) Any party who wishes to answer an application made pursuant to this section shall file with the Secretary and serve, as the case may be, on all parties to the original proceeding or all parties to the proceeding giving rise to the order or decision in respect of which leave to appeal is sought, a written answer within 20 days of receipt of the application.

(6) The applicant may, where he has been served with an answer, file with the Secretary and serve, as the case may be, on all parties to the original proceeding or all parties to the proceeding giving rise to the order or decision in respect of which leave to appeal is sought, a written reply within 10 days of receipt of the answer.

(7) The Board may grant a stay subject to such terms and conditions as it considers just and reasonable in the circumstances.

Clarification

47. Notwithstanding anything in this Part, an application to reconsider an order or decision of a procedural nature made in the course of a proceeding, other than a decision to adjourn a public hearing for a period in excess of 60 days or for an unspecified period, may be made by notice of motion pursuant to section 24.

PART VI

APPROVAL OF PLAN, PROFILE AND BOOK OF REFERENCE

48. Sections 8 and 22, sections 27 to 36, subsection 37(2), and sections 39 and 40 do not apply to proceedings under this Part.

49. For the purpose of sections 50 to 54, "applicant" means a company that makes an application for approval of a plan, profile and book of reference under section 29 of the Act.

50. (1) Before any notice in relation to a plan, profile and book of reference is served or published by an applicant under section 29.1 of the Act, the applicant shall

(a) submit to the Board for approval as to form a sample notice for service and a sample notice for publication, including for each such notice a sample form of description of the proposed detailed route to be included in each notice; or

(b) identify in writing, for the approval of the Board, a form of notice or forms of notices previously approved by the Board that it proposes to serve or publish in relation to the plan, profile and book of reference.

(2) Unless an alternative form of notice is approved in advance by the Board, the description of the proposed detailed route of the pipeline forming part of a notice for service on an owner of lands under section 29.1 of the Act shall include a plan of the lands proposed to be acquired, drawn with reference to legal survey points if such points are available, that is of a scale sufficient to identify with reasonable accuracy the location, dimensions and area of the lands in relation to the remaining adjacent lands of the owner, if any.

(3) Unless an alternative form of notice is approved in advance by the Board, the description of the proposed detailed route of the pipeline forming part of a notice for publication under section 29.1 of the Act shall include

(a) a plan of a scale sufficient to represent with reasonable accuracy, having regard to the terrain and degree of habitation in the area, the location of the proposed detailed route in relation to prominent topographical features, population centres, highways, utilities and other such prominent local landmarks; and

(b) a schedule listing sequentially the names of each registered owner in fee simple of the lands proposed to be acquired within the area covered by the plan and identifying the lands of each such owner by such legal designations of land, including the municipal address, parcel number, registered plan number, lot, concession, township, parish, range, county or other equivalent land divisions, as are sufficient to identify the lands of each such owner.

(4) The submission required under subsection (1) shall include

(a) a copy of each plan described in paragraph 3(a) that is proposed to be published,

(b) a statement that shows for each such plan the size of the area covered by the plan and the population densities in the area; and

(c) a statement of the names of the publications in which it is proposed to publish the notice and the number of issues of each such publication in which it is proposed to publish such notice.

(5) Each notice published under section 29.1 of the Act shall identify a location within or near the area covered by the plan where the plans, profiles and books of reference for that area are available for inspection unless the Board directs that the notice need not identify such a location.

(6) The notices served or published under section 29.1 shall not depart in any material respect from the forms approved by the Board.

51. If a notice referred to in paragraph 29.1(1)a of the Act cannot be served by personal service in any manner permitted by the general rules of practice in the Federal Court of Canada, the applicant wishing to serve the notice may apply to the Board for an order under the National Energy Board Substituted Service Regulations.

52. A person who files with the Board a written statement under subsection 29.1(2) or (3) of the Act in relation to a proposed detailed route of a pipeline described in a notice served or published by an applicant shall send concurrently, by registered mail, a copy of the statement to the applicant at the address shown in the notice.

53. Forthwith upon completion by an applicant of the service and publication of notices under section 29.1 of the Act in relation to a plan, profile and book of reference, the applicant shall notify the Board in writing of the dates of the last such service and publication.

54. (1) Upon the fixing by the Board under subsection 29.2(1) of the Act of a hearing date respecting a plan, profile and book of reference submitted to the Board by an applicant, the Secretary shall send to the applicant a copy of the names and addresses of persons who have filed written statements with the Board in respect of that plan, profile and book of reference, and the applicant shall upon receipt thereof forthwith send by registered mail to each such person a copy of the order of the Board.

(2) The applicant referred to in subsection (1) shall file at the hearing held under subsection 29.2(3) of the Act proof of compliance with subsection (1) and with subsection 29.1(1) of the Act.

Costs

55. Sections 56 and 57 apply to the costs referred to in section 29.6 of the Act in relation to a public hearing held under subsection 29.2(3) of the Act.

56. A person who has made representations to the Board at a public hearing held under subsection 29.2(3) of the Act shall prepare an itemized statement of the actual costs reasonably incurred by that person for the purposes of the hearing and shall send concurrently by registered mail a copy of the statement to the Secretary and to the company whose pipeline route is affected by the hearing.

57. (1) Where a person sends a statement of costs to a company in accordance with section 56 and the company does not pay in full the costs itemized in the statement within 60 days of the date of mailing of the statement, that person may request the Board to fix the amount to be paid by the company.

(2) A company that receives a statement of costs in accordance with section 56 may at any time after receipt thereof request the Board to fix the amount to be paid by the company.

(3) A request referred to in this section shall be in writing and the person or company making the request shall send concurrently by registered mail a copy of the request to the Board and to the other party.

(4) The Board may appoint a member of its staff to mediate between the parties involved in a request to the Board under this section with a view to obtaining an agreement as to the amount of costs to be paid by the company but if no agreement is reached within 20 days following the appointment of the mediator, the Board shall upon notice to the parties commence proceedings to fix the amount to be paid.

PART VII

RIGHT OF ENTRY TO LANDS

58. Section 8 and sections 27 to 40 do not apply to proceedings under this Part.

59. A company that wishes to apply to the Board for an order under section 75.26 of the Act shall,

(a) forthwith after the completion of service on the owner of lands of a notice referred to in subsection 75.26(2) of the Act, file a copy of the notice with the Board, and

(b) forthwith after the service on the owner of the lands of the schedule referred to in paragraph 60(b), file a copy of the schedule with the Board.

60. An application under section 75.26 of the Act shall include

(a) proof that the notice referred to in subsection 75.26(2) of the Act has been served on the owner of the lands by personal service in any manner permitted by the general rules of practice in the Federal Court of Canada or in any manner ordered by the Board under the National Energy Board Substituted Service Regulations, within the time referred to in that subsection;

(b) a schedule proposed to be made part of the order sought from the Board that contains, in registrable form, a description of

(i) the lands in respect of which the order is sought,

(ii) the right, title or interest applied for in respect of the lands, and

(iii) any rights, obligations, restrictions or other terms and conditions proposed to attach to the right, title or interest, to any remaining interest or interests, or to any adjacent lands of the owner;

(c) if the notice referred to in subsection 75.26(2) of the Act has been served on the owner of the lands by personal service, proof that the schedule referred to in paragraph (b) has been served on that owner not less than 20 days prior to the date on which the application is made to the Board; and

(d) a current abstract of title to the lands or a certified copy of the certificate of title to the lands.

61. (1) An owner of lands in respect of which an application under section 75.26 of the Act has been made by a company who sends to the Board an objection in writing referred to paragraph 75.26(2)(c) of the Act shall send concurrently, by registered mail, a copy of the objection to the company at the address shown in the notice served on the owner by the company.

(2) A company that receives a written objection referred to in subsection (1) may file with the Board a written response to the objection or shall inform the Board in writing that it does not wish to respond to the objection.

SCHEDULE I

FORMS

FORM 1

Subpoena

(Coat of Arms)

NATIONAL ENERGY BOARD

CANADA

IN THE MATTER OF

TO

You are hereby required to attend before the Board at the
of _____ in the Province of _____ on _____ day,
the _____ day of _____ 19 _____ at the hour of _____ o'clock in the
noon, and so from day to day until the above matter is heard, to give evidence
on behalf of _____ and also to bring with you and produce at the time
and place aforesaid the following documents, VIZ: (specify documents)

IN WITNESS WHEREOF this Subpoena is signed for the National Energy Board by
its Secretary at Ottawa, Ontario, this _____ day of _____ 19 _____.

(SEAL)

Secretary

(The following shall be endorsed on the subpoena:

NOTE: Subsection 20(3) of the NEB Rules of Practice and Procedure provides as follows:

"No one served by a party with a subpoena is required to appear before the Board pursuant to such subpoena unless there has been paid or tendered to him conduct money in an amount sufficient for his reasonable fees and travelling expenses, if any.")

FORM 2

(Public Hearing Procedures under Part III)

Directions on Procedure

(file number)

(date)

(style of cause)

Directions on Procedure

(Name of applicant) has applied to the National Energy Board for (describe type of application). Having considered the application, the Board directs as follows:

1. The applicant shall deposit and keep on file, for public inspection during normal business hours, a copy of the application (in its offices, if applicable) at (insert location(s)).
2. Interventions and letters of comment are required to be filed by (date).
3. The Secretary will issue a list of intervenors shortly after (date).
4. Information requests addressed to the applicant or any other party to the proceeding are required to be filed and served by (date).
5. Responses to information requests received within the specified time limit shall be filed with the Secretary and served on all other parties to the proceeding by (date).
6. Intervenor written evidence is required to be filed and served by (date).

(Note: Where directions are given permitting an applicant to submit additional written evidence they shall be inserted here and subsequent paragraphs would be renumbered accordingly.)

7. The public hearing shall commence at (location) on (day, date, time).

(Note: Where a pre-hearing conference is to be held, paragraph 7 would be renumbered 8, paragraphs 8, 9, and 10 below would be renumbered 9, 10 and 11, and a new paragraph 7 would be inserted as follows:

"7. A pre-hearing conference is scheduled to take place at (location) on (day, date, time).")

8. The applicant shall serve a copy of the attached public notice forthwith on the following: (insert names).

9. The publications in which the applicant is required to publish the public notice are as follows: (insert names).

(Note: Where directions are given, for example, with respect to the issues to be heard or the phases in which the hearing is to be conducted, they shall be inserted here and paragraph 10 below would be renumbered accordingly.)

10. These Directions supplement the NEB Rules of Practice and Procedure.

(name)
Secretary

FORM 3

(Public Hearing Procedures under Part III)

NATIONAL ENERGY BOARD

NOTICE OF PUBLIC HEARING

(NAME OF COMPANY, STYLE OF CAUSE)

The National Energy Board will conduct a hearing into an application by (Name of Applicant) pursuant to (Parts) of the National Energy Board Act for (Describe Application). The hearing will commence (Date, Time, Location).

The hearing will be public and will be held to obtain the evidence and relevant views of interested parties, groups, organizations, and companies on the application.

Anyone wishing to intervene in the hearing must file a written intervention with the Secretary of the Board and serve a copy on the Applicant. The Applicant will mail a copy of the application to each intervenor.

Anyone wishing only to comment on the application should write to the Secretary of the Board and send a copy to the Applicant at (Name and Address of Applicant).

The deadline for receipt of either written interventions or comments is (Date). The Secretary will then issue a list of intervenors.

Information on the procedures for this hearing (Reference Number) or the NEB Rules of Practice and Procedure governing all hearings (both documents available in English and French) may be obtained by writing to the Secretary or telephoning the Board's Information Services at (telephone number).

(name)
Secretary
National Energy Board
(address)

(date)

FORM 4

(Non-Hearing Procedures Pursuant to Section 39)

Directions on Procedure

(file number)

(date)

(style of cause)

Directions on Procedure

(Name of applicant) has applied to the National Energy Board for (describe type of application). Having considered the application, the Board directs as follows:

1. The applicant shall deposit and keep on file, for public inspection during normal business hours, a copy of the application (in its offices, if applicable) at (insert location(s)).
2. Letters of intervention are required to be filed with the Secretary and served on the applicant by (date).
3. Any reply to a letter of intervention is required to be filed with the Secretary and served on the intervenor by (date).
4. The applicant shall serve a copy of the application and these Directions on Procedure forthwith on the following: (insert names).

(Note: Where the Board issues a public notice pursuant to section 43, paragraph 5 below would be renumbered 7 and the following paragraphs would be inserted:

"5. The applicant shall serve a copy of the attached public notice forthwith on the following: (insert names).

6. The publications in which the applicant is required to publish the public notice are as follows: (insert names)."

5. These Directions supplement the NEB Rules of Practice and Procedure.

(name)
Secretary

FORM 5

(Non-Hearing Procedures Pursuant to Section 39)

Public Notice

Ottawa, (date)
(name of applicant, style of cause, file number)

The National Energy Board has received an application from (name of applicant) for (describe type of application).
(Provide a summary of the application or the proposed issue.)

Any interested person who wishes to comment on this application may do so by filing a letter of intervention with the Secretary of the Board and serving a copy thereof on the applicant on or before (date). Copies of any reply from the applicant to a letter of intervention shall be filed with the Secretary and served on the intervenor on or before (date).

Additional information on the application, the locations at which the application may be inspected, or the procedure to be followed may be obtained by writing to the Secretary or telephoning the Board's Information Services at (telephone number).

(Note: Two alternate texts are provided for the concluding section of the notice.)

TEXT A

The Board will dispose of the application on the basis of the written material before it.

TEXT B

Depending on the nature of the interventions and replies received within the time periods set out above, the Board will determine whether or not a public hearing will be held to deal with the application. All interested persons who have expressed an interest in the application will be notified by the Board should a public hearing be convened. In the event that a public hearing is not held, the Board will dispose of the application on the basis of the written material before it.

(date)

(name)
Secretary
National Energy Board
(address)

SCHEDULE II

(This Schedule will contain the information requirements presently contained in the Board's Rules as amended in accordance with proposals which have been issued for comment under separate cover. The numbering of the Parts corresponds as follows:

Part I	Existing Part I
Part II	Existing Part II
Part III	Existing Part III
Part IV	Existing Part VII
Part V	Existing Part V
Part VI	Existing Part VI
Part VII	Proposed New Part VIII
Part VIII	Proposed New Part IX
Part IX	Proposed New Part X

The existing Part IV has been deleted in consequence of the deletion of the expedited hearing procedures. The new provisions in the Act regarding interim orders have made the expedited hearing procedures unnecessary.)

Schedule II (cont.)

TABLE I

<u>Column I</u>	<u>Column II</u>
Type of Application	Part(s) of Schedule II
1. Certificate - Gas Pipeline	I, VI, IX
2. Certificate - Oil Pipeline	II, VI, IX
3. Section 49* Order - Gas Pipeline	VI, VII, IX
4. Section 49* Order - Oil Pipeline	VI, VIII, IX
5. Abandonment of Gas or Oil Pipeline	VI
6. Certificate - International Power Line	III
7. Part IV** Order - Gas Pipeline	V
8. Part IV** Order - Oil Pipeline	IV
* Section 49 of the Act	
** Part IV of the Act	

(The requirement to file, in respect of a certificate application, the map required under section 28 of the Act having a scale of not less than 1:50,000 would be incorporated into the relevant parts of Schedule II.)

NATIONAL ENERGY BOARD
OTTAWA, K1A 0E5



OFFICE NATIONAL DE L'ÉNERGIE
OTTAWA, K1A 0E5

CAA
MT 176
-N 53

File No. 132-27
150-3/C47

13 August 1985

TO: INTERESTED PARTIES

MEMORANDUM OF GUIDANCE

Re: Regulation of Group 2 Companies



Following extensive public consultation, the Board has concluded that a significant number of the oil and gas pipelines under its jurisdiction should be subject to a lighter degree of regulation than the major interprovincial and international pipeline systems. To give effect to this decision, the Board has decided to divide regulated companies into two broad groups. Group 1 companies are generally those with extensive systems under NEB jurisdiction, Group 2 companies those with lesser operations.

This Memorandum of Guidance describes the reduced degree of regulation which will henceforth govern Group 2 companies. Group 1 companies are not affected, and will continue to be subject to the full existing regulatory requirements.

Group 1 companies are defined as those listed below:

Alberta Natural Gas Company Ltd.
Cochin Pipe Lines Ltd.
Foothills Pipe Lines (Yukon) Ltd.
Interprovincial Pipe Line Limited
Interprovincial Pipe Line (NW) Ltd.
Trans Mountain Pipe Line Company Ltd.
Trans Québec & Maritimes Pipeline Inc.
Trans-Northern Pipelines Inc.
TransCanada PipeLines Inc.
Westcoast Transmission Company Limited

Any company not in Group 1 is by definition a Group 2 company. Schedule A lists those currently in Group 2.

The Board exercises two basic types of regulation over pipelines, namely facilities and financial. For Group 2 companies the extent of these two types of regulation will be as follows:


Facilities: Schedule B sets out the minimum information requirements for the design and construction of new pipelines and the operation of all lines.

Financial: Schedule C sets guidelines for the regulation of tolls and tariffs. Regulation of Group 2 companies will normally be on a complaint basis, with a consequent reduction in financial reporting requirements. Detailed information in support of a tariff filing will be required only after a complaint has been registered or on the Board's specific request.

The Board believes that these measures, especially the reduction in the requirements for filing of information, will lighten the burden of regulation on Group 2 companies.



G. Yorke Slader
Secretary



GROUP 2 COMPANIES
REGULATED BY THE NATIONAL ENERGY BOARD*

GAS

1. Amoco Canada Petroleum Company Ltd.
2. Canadian-Montana Pipe Line Company
3. Champion Pipe Line Corporation Ltd.
4. Consolidated Pipe Lines Company
5. Dome Petroleum Limited
6. ICG Transmission Holdings Ltd.
7. Many Islands Pipe Lines (Canada) Limited
8. Mid-Continent Pipelines Limited
9. Minell Pipeline Ltd.
10. Murphy Oil Company Ltd.
11. Niagara Gas Transmission Limited
12. Peace River Transmission Company Limited
13. Saskatchewan Power Corporation
14. Union Gas Limited

OIL AND PRODUCTS

1. Aurora Pipe Line Company
2. Dome Kerrobert Pipeline Ltd.
3. Dome NGL Pipeline Ltd.
4. Dome NGL Pipeline Ltd. and Amoco
Canada Petroleum Company Ltd.
5. Esso Resources Canada Limited
6. Manito Pipelines Ltd.
7. Montreal Pipe Line Limited
8. Mont Resources Company Limited
9. Murphy Oil Company Ltd.
10. Northwest Transmission Company Ltd.
11. Petroleum Transmission Company
12. Sun Canadian Pipe Line Company Limited
13. Wascana Pipe Line Ltd.
14. Westspur Pipe Line Company
15. Yukon Pipelines Ltd.

* A brief description of these pipelines is provided on the following pages.

DESCRIPTION OF GROUP 2 COMPANIES UNDER NEB JURISDICTION

GAS

1. Amoco Canada Petroleum Company Ltd.

- The Amoco system, known as the Beaver River Gas Gathering System, connects their gas well in the Yukon Territory to their gas plant in Northern British Columbia where gas is sold to Westcoast Transmission. The system consists of two parallel 60 mm lines of approximately 6.7 km in length for the transmission of fuel gas and water respectively, as well as a third parallel line for gas transmission. This latter parallel line consists of approximately 2.1 km of 168 mm line, 1.1 km of 219 mm line and 3.5 km of 457 mm line.

2. Canadian-Montana Pipe Line Company

- Canadian-Montana Pipe Line Company owns and operates three separate lines in Alberta for the exportation of gas from various fields in that province to the United States. The first, the Reagan Line, measures 1.4 km with a diameter of 114 mm and carries gas from Universal Gas Co. Ltd. in Alberta to the International Border near Cardston, Alberta for delivery to Montana Power Co. The second, the Caraway Line, consists of a 6.3 km 406 mm line from NOVA to Montana Power Co. in the United States. The third, the Pendant D'Oreille Line, consists of 29.6 km of 406 mm line from gas fields in Alberta to the Montana Power Co. system at the International Border.

3. Champion Pipe Line Corporation Ltd.

- The Champion pipeline system consists of two lines; one approximately 96.5 km in length with 219 mm diameter extending from a take-off point on TransCanada PipeLine's mainline near Earlington, Ontario to Rouyn-Noranda, Québec, and one approximately 2 km in length with 219 mm diameter between Thorne, Ontario and Temiskaming, Québec. Both lines tie into the Le Gaz Provincial du Nord de Québec Ltée systems.

4. Consolidated Pipe Lines Company

- The Consolidated pipeline is a 210 km line with a diameter of 406 mm. It carries gas from Northern Natural Gas in Montana, entering Canada at a point near Climax, Saskatchewan to TransCanada's compressor station #9 at Herbert, Saskatchewan. The gas is subsequently exported at Emerson via TransCanada's pipeline into the Great Lakes pipeline system in the United States.

5. Dome Petroleum Limited

- Dome Petroleum operates a 3.2 km pipeline with a diameter of 219 mm. It delivers ethane from the Empress Plant in Alberta for use as fuel in TransCanada's compressor station #2 near Burstall in Saskatchewan (currently inactive).

6. ICG Transmission Holdings Ltd.

- ICG operates a 190 km line with diameters of 114 mm, 219 mm and 324 mm separated into two portions in Canada. This system delivers gas from TransCanada's compressor station #43 near Spruce in Manitoba to the International Boundary east of Emerson in Minnesota in the United States. This line travels south of Lake of the Woods and re-enters Ontario at Rainy River. There, the ICG line carries the gas to Fort Frances and crosses the border again to terminate at Iroquois Falls in Minnesota.

7. Many Islands Pipe Lines (Canada) Limited

- The Many Islands system consists of three lines transporting natural gas from the NOVA system in Alberta to the Saskatchewan Power Corporation Gas System in Saskatchewan. These three lines consist of the following; 28.3 km Cold Lake to Beacon Hill 273 mm line, 65.3 km 406 mm Unity line and the 31.5 km Esther to Smiley 219 mm line.

8. Mid-Continent Pipelines Limited

- Mid-Continent has a 1.46 km looped line, with both loops having a diameter of 406 mm. It carries gas from the Many Islands system in Alberta to the Saskatchewan Power system in Saskatchewan.

9. Minell Pipeline Ltd.

- The Minell pipeline system transports natural gas from a connection with TransCanada PipeLines at its Compressor Station No. 25 site near Moosomin, Saskatchewan to a point in Russell, Manitoba through 69 km of 168 mm pipeline with a 0.6 km 60 mm diameter lateral to St. Lazare, Manitoba.

10. Murphy Oil Company Ltd.

- The Murphy gas line, known as the Red Coulee Line is 0.8 km in length and has a diameter of 73 mm. This line was intended to transport gas from the Red Coulee area to a point on the International boundary between Canada and the United States. The line has remained inactive since construction due to insufficient gas supplies. There is a parallel Red Coulee oil line owned and operated by Murphy.

11. Niagara Gas Transmission Limited

- Niagara Gas owns and operates one international line and two interprovincial lines. The first line is a 14.4 km 324 mm diameter line carrying gas from TransCanada's mainline near Cornwall to the International Border into the St. Lawrence Gas Co. system. The second line is a 0.8 km 406 mm diameter line carrying gas from Ottawa Gas system in Ontario to the Gazifère de Hull system in Gatineau, Québec. The third line is a 0.3 km 324 mm diameter line delivering gas from the Gazifère de Hull system in Hull, Québec to the E.B. Eddy pulp and paper plant in Ontario.

12. Peace River Transmission Company Limited

- Peace River has three lines carrying gas from the Alberta fields to Dawson Creek in British Columbia. These lines measure 42.7 km, 9.6 km and 1.0 km in length with respective diameters of 114 mm, 168 mm and 60 mm.

13. Saskatchewan Power Corporation

- The Saskatchewan Power pipeline consists of an 18.5 km line with a diameter of 219 mm. The line carries gas from the NOVA system near Sibbald, Alberta to the Saskatchewan Power Corporation system near Hoosier in Saskatchewan. Five gathering lines have been tied into this line in Saskatchewan.

14. Union Gas Limited

- Union Gas has a 1.4 km line with a diameter of 324 mm. This line carries gas from the Ontario Natural Gas Storage and Pipelines Ltd. system near Ojibway in Southern Ontario to the Panhandle Eastern Pipe Line Co. system in the United States.

OIL

1. Aurora Pipe Line Company

- The Aurora pipeline system consists of two parallel sections of pipeline, each 0.8 km in length and with a diameter of 219 mm and 324 mm. Both lines transport liquid hydrocarbons from the Rangeland pipeline system near Carway in Southern Alberta to the connecting pipeline system of the Continental Pipe Line Company in Montana.

2. Dome Kerrobert Pipeline Ltd.

- This pipeline system consists of 153 km of 219 mm pipeline and 0.7 km of 273 mm pipeline. This system delivers a mixture of natural gas liquids from the Empress extraction plant in Alberta to the Interprovincial Pipeline Limited system near Kerrobert in Saskatchewan.

3. Dome NGL Pipeline Ltd.

- The Dome NGL pipeline system transports a mixture of natural gas liquids and consists of
 - 12 km of 219 mm line extending from the centre of the St. Clair River to the Sarnia pump and meter station,
 - 134 km section of pipeline extending from the Sarnia pump and meter station to the Windsor pump and meter station comprising 5.8 km of 324 mm line through 128.2 km of 273 mm line.
 - 2.4 km section of pipeline extending from the Windsor pump and meter station to the centre of the Detroit River comprising 2.0 km of 324 mm line through 0.4 km of 273 mm line (river crossing).
 - one 219 mm and one 273 mm spare river crossings in the St. Clair River.
 - 0.3 km of 219 mm and 324 mm lines connecting the Dome Petroleum fractionation plant and the Dome NGL pump and meter station in Sarnia.

4. Dome NGL Pipeline Ltd. and Amoco Canada Petroleum Company Ltd.

- This system transports condensate and LPG from the Dome plant in Sarnia to the Consumers' power plant in Marysville (U.S.) and condensate to the Petrosar plant in Sarnia.

The pipeline extends for a distance of 11 km between Sarnia and Marysville and consists of a 219 mm condensate pipeline and a parallel 219 mm LPG pipeline.

A valve manifold on the 219 mm condensate pipeline, 3 km downstream from Sarnia, is connected to an 8.5 km 168 mm diameter lateral which delivers condensate to the Petrosar facilities in Sarnia.

5. Esso Resources Canada Limited

- The Esso Resources pipeline (formerly Imperial Oil Limited) known as the Boundary Lake Line has a length of 11.3 km with a diameter of 273 mm. This line moves oil, gas and water from the Boundary Lake field in the Peace River area, Alberta, to the Boundary Lake gas conservation plant in British Columbia, where separation and gas processing takes place.

6. Manito Pipelines Ltd.

- Manito operates a 184 km heavy oil blend line with a parallel condensate line. The main heavy oil blend line has a diameter of 273 mm. The condensate line consists of 167 km of 114 mm pipeline and 17 km of 168 mm pipeline. This pipeline connects the Murphy production facilities at Blackfoot in Alberta to the Interprovincial Pipe Line system at Kerrobert in Saskatchewan.

7. Montreal Pipe Line Limited

- The Montreal pipeline system consists of three looped main lines of 323, 457 and 610 mm diameter, each 114.1 km in length. This system carries crude oil from the Portland Pipe Line at the International Border to the refineries in Montreal East.

8. Mont Resources Company Ltd.

- Formerly Union Oil, this 0.2 km pipeline with a diameter of 48 mm carries oil from the Regan field in Alberta to the International Boundary for delivery to the Union Oil pipeline in Montana.

9. Murphy Oil Company Ltd.

- The Murphy oil system consists of two lines, the Red Coulee line and the Milk River Line. Both lines originate in Southern Alberta and join together just north of the Canada-U.S. boundary. A single 89 mm diameter line crosses the border for delivery to the Permian Corporation in Montana. The Red Coulee line has a length of 0.76 km with a diameter of 89 mm and the Milk River line has a length of 17.7 km with a diameter of 168 mm. There is a parallel Red Coulee gas line.

10. Northwest Transmission Company Ltd.

- This pipeline consists of a 1.6 km line with a diameter of 114 mm. The line carries oil and condensate from a crude oil production battery in Amerillo, Alberta, across the Interprovincial Boundary and through the United States to the oil gathering facilities of Trans-Prairies Pipelines Ltd. in British Columbia.

11. Petroleum Transmission Company

- Petroleum has a 933 km line with a diameter of 168 mm carrying LPG from the gas processing plant near Empress, Alberta to Winnipeg, Manitoba. A short 8.6 km 168 mm spur line near Regina permits transfer of product to or from Procor's storage caverns in Regina.

12. Sun Canadian Pipe Line Company Limited

- The Sun-Canadian pipeline system consists of a 3.6 km 219 mm diameter line extending from the Sun Pipe Line system at the International Boundary in the St.-Clair River to the Sun Oil refinery in Sarnia. Products shipped through the line are crude oil, distillate oils, butanes and propane.

13. Wascana Pipe Line Ltd.

- This pipeline system consists of 172 km of mainline and condensate line from the Regina terminal to the Saskatchewan - U.S. border connecting into the north end of the Butte Pipeline system in the United States. The system carries heavy oil and condensate. Approximately 1.5 km of pipeline connects the Regina terminal with IPL's pipeline facility at Regina. The diameters are 323 mm and 610 mm (currently inactive).

14. Westspur Pipe Line Company

- The main trunk line consists of a single 175.5 km 324 mm line, which runs between Midale and Steelman in Saskatchewan, and 121 km of 324 mm and 406 mm lines which run in parallel between Steelman, Saskatchewan and Cromer, Manitoba. Light and medium crude oils are shipped in the 324 mm line between Midale and Steelman, and then through the 406 mm line to Cromer. The 324 mm line between Steelman and Cromer is completely isolated from the rest of the system and is devoted to natural gas liquids. Westspur also operates an 8.4 km export lateral with a diameter of 219 mm from Pinto in Southeastern Saskatchewan to Lignite in North Dakota (USA).

Some of the gathering system also falls under the Board's jurisdiction and this consists of 102 mm, 168 mm, 219 mm, 273 mm and 324 mm lines. Most of the field piping is 102 mm and 168 mm.

15. Yukon Pipelines Ltd.

- This system consists of a 145.6 km 114 mm diameter line carrying oil products from White Pass in British Columbia to Upper Whitehorse's tank farm in the Yukon Territory. This pipeline forms part of an integrated transportation system run by the White Pass and Yukon Corp.

NATIONAL ENERGY BOARD:
GUIDELINES FOR THE INFORMATION REQUIRED
TO BE FILED BY GROUP 2 COMPANIES*

The National Energy Board regulates the design, construction and operation of pipelines under Part III of the NEB Act and the Oil and Gas Pipeline Regulations made pursuant to Part III**. Currently, applicants for pipeline facilities are required to provide the information set out in the Schedule to the NEB Rules of Practice and Procedure***.

Approval of an application for the construction of a pipeline more than 40 kilometres in length (Section 44 of the NEB Act) requires a Certificate of Public Convenience and Necessity which in turn requires a public hearing and approval of the Board's decision by the Governor in Council. Pipelines less than 40 kilometres in length (Section 49 of the NEB Act) can be authorized by a Board Order without a public hearing.

In addition to the necessity of obtaining approval to build a pipeline, a separate approval is required to open a pipeline for service or to abandon, sell, or lease a pipeline.

In order to tailor the information requirements to the particular circumstances of a Group 2 company, the Board will adopt the following approach to the regulation of the design, construction and operation of pipelines.

I. Application for Construction

Group 2 companies wishing to apply for approval to construct and operate a pipeline and associated facilities would not normally be expected by the Board to provide all of the information set out in the Schedule to the NEB Rules of Practice and Procedure.

* Group 2 companies currently regulated by the Board are listed in Schedule A.

** These regulations are expected to be superseded by the revised Onshore Pipeline Regulations dated 16 April 1985 and distributed to industry under cover of a letter dated 8 May 1985.

*** Revisions to the Schedules were distributed to interested parties by letter dated 17 October 1984.

For an application for construction of a new pipeline or for any modification or extension exceeding 40 kilometres in length, the information identified in items 1 to 12 below would normally have to be provided. For modifications or extensions less than 40 kilometres in length or where a company has already filed standard specifications or procedures, the Applicant would provide the information in items 1 to 12 which it judges to be pertinent to its project.

The Board's approach is that a company should provide the amount of information which the company deems will enable the Board to obtain a satisfactory understanding of the project. The table below lists the information required to be filed and indicates where reference is made to that information in the Board's Rules and Regulations. Upon receiving that information, and any such information the Board additionally requests, the Board would:

- (i) for projects less than 40 kilometres (Section 49 applications), issue an approval order, deny the application or proceed to a public hearing,
- (ii) for projects exceeding 40 kilometres (Section 44 applications), proceed to a public hearing.

<u>Information Requirement</u>	<u>Reference</u>	
	<u>Section 49 Application</u>	<u>Section 44 Application</u>
1. Applicant,		
2. Owner(s),		
3. Operator,		
4. Construction schedule,	- NEB Rules of Practice and Procedure* Part VIII, Section 2(c) Part IX, Section 2(d)	- Rules Part I, Section 6(k) Part II, Section 6(k)
5. Evidence that there is sufficient supply and market over a sustained period to justify construction of the pipeline,	- Rules Part VIII, Section 2(f) Part IX, Section 2(f)	- Rules Part I, Sections 1 to 4 and 6(d) Part II, Sections 1 to 4 and 6(d)

* Rules= Parts to the Schedule of the NEB Rules of Practice and Procedure

Information Requirement

Reference

	<u>Section 49</u> <u>Application</u>	<u>Section 44</u> <u>Application</u>
6. Schematic and standard drawings,	- Rules Part VI, Sections 1 and 3 Part VIII, Section 2 Part IX, Section 2 Onshore Pipeline Regulations* Section 9	- Rules Part VI, Sections 1 and 3 Part I, Section 6 Part II, Section 6 ONPR Section 9
7. Technical description of the project with a list of materials including specifications (line pipe, valves, pumps, compressors, etc.),	- Rules Part VIII, Sections 2 to 9 Part IX, Sections 2 to 7 ONPR Part II	- Rules Part I, Sections 6 to 12 Part II, Sections 6 to 11 ONPR Part II
8. Site plan with the description of the location of new land and land rights to be acquired,	- Rules Parts VI and X NEB Act Sections 74 and 75	- Rules Parts VI and X NEB Act Sections 74 and 75
9. Present zoning of the preferred site and the zoning and current land use within 500 metres of any facility site or right-of-way,	- Rules Parts VI, VIII Section 3, IX Section 3 and X NEB Act Sections 74 and 75	- Rules Part I, Section 6(g) Part II, Section 6(g) Parts VI and X NEB Act Sections 74 and 75
10. An assessment of any potential environmental impacts within an appropriate distance of the right-of-way or of any facility site, and proposals for their mitigation, and description of the condition to which the right-of-way is to be restored,	- Rules Part VI, Sections 3 to 6 ONPR Sections 44 and 45	- Rules Part VI, Sections 3 to 6 ONPR Sections 44 and 45

* ONPR = Onshore Pipeline Regulations

Information Requirement

Reference

	<u>Section 49</u> <u>Application</u>	<u>Section 44</u> <u>Application</u>
11. Cost estimate and information to demonstrate that the project is required by the public convenience and necessity (economic justification),	- Rules Part VIII, Sections 1, 2(b), 2(g), 2(h) and 11 Part IX, Sections 1, 2(b), 2(g), 2(h) and 9	- Rules Part I, Sections 5, 6(a), 13, 14, 15 and 17 Part II, Sections 5, 6(a), 12, 13, 14 and 16
12. Statement of procurement policies used to ensure that Canadian firms will be given a fair and adequate opportunity to participate in engineering, material and service supply to projects (or appropriate reference to information already on file with the Board).	- Rules Part VIII, Section 10 Part IX, Section 8	- Rules Part I, Section 16 Part II, Section 15

II. Pre-Construction

Following approval of the application for construction, but prior to commencing construction, the applicant must normally provide the following additional information. Note that some of this information could be provided with the application for construction in section I above.

<u>Information Requirement</u>	<u>Reference</u> <u>(Sections 44 and 49)</u>
13. Field joining procedures,	- ONPR Part III
14. Plan, Profile and Book of Reference,	- NEB Act Sections 27(b), 29.(1), (2) and (3)
15. Notice for service and publication with respect to detailed routing and land acquisition*.	- NEB Act Section 29.1.

III. Construction

During construction and prior to the commencement of testing a pipeline or any portion thereof, the applicant must normally provide the following additional information. Note that some of this information could be provided with the application for construction in section I above.

* Once a company has obtained authorization to build or extend an interprovincial or international pipeline, it must comply with the requirements of the Act relating to land acquisition and determination of the detailed route of the pipeline. The provisions of the Act dealing with land acquisition can be found in sections 73 and following of the Act. Those sections set out the specific requirements relating to the content of acquisition agreements, notification and procedures. With respect to determination of the detailed route of the pipeline, once facilities have been approved, the company must file plans and profiles, unless exemption from that requirement is granted under the provisions of Section 49. The company should have regard to Section 29 and following of the Act which explain the requirements for notification of land owners and procedures to be followed for the determination of the detailed route.

<u>Information Requirement</u>	<u>Reference</u> <u>(Sections 44 and 49)</u>
16. Details of any unplanned interruption of the operation of a utility utility being crossed by the pipeline under construction,	- ONPR Section 100
17. Board's approval is required if the criteria for the acceptance of imperfections in joints is different from the CSA workmanship criteria,	- ONPR Section 38
18. Pressure testing program,	- ONPR Part VI
19. Radiographs of welds (upon Board request),	
20. Within three months of completion of construction of a utility crossing, unless otherwise instructed by the Board, a report listing:	- ONPR Section 101
(i) the description and location of utility crossed; and	
(ii) the name of the owner or of the authority having control over utility.	

IV. Leave-to-Open Application

Before a pipeline commences operation, the Board must be satisfied that it is in such a condition that it can be operated safely. Upon application, unless the company is exempted pursuant to Section 49 of the NEB Act, the Board issues a "Leave to Open" Order. When a company applies to the Board for a "Leave to Open" Order, it must submit an affidavit, signed by a company engineer;

<u>Information Requirement</u>	<u>Reference</u> <u>(Sections 44 and 49)</u>
21. stating the standards to which the pipeline facilities have been designed, constructed or repaired,	- NEB Act Sections 26.(1)(b) and 38 ONPR Part VII
22. certifying that the line pipe and components used on the pipeline meet the specifications submitted pursuant to item 7 above,	"
23. certifying that the field joints: (i) were made in accordance with the field joining specifications and procedures submitted pursuant to item 13 above; (ii) were nondestructively examined in accordance with the procedures submitted pursuant to items 13 and 17 above; and (iii) meet the standards of acceptability submitted pursuant to item 17 above,	"
24. certifying that the pipeline facilities have been tested in accordance with the pressure testing program referred to in item 18 above, and	"
25. stating that the pipeline facilities may be safely opened for its intended service.	

V. Operation

For an operating pipeline, an operator shall normally provide the following:

<u>Information Requirement</u>	<u>Reference (Sections 44 and 49)</u>
26. On 1 December following the first full growing-season after the pipeline commences operation, a letter setting out a detailed list of sites not recovered to the condition intended in item 10 above, and the proposed action to be taken on those sites.	- ONPR Section 99
27. Application in advance for any change of facilities,	- NEB Act Section 49
28. Incident reports.	- ONPR Sections 102 to 105
VI. <u>Termination of Operations</u>	
29. Applications shall be submitted for deactivation for periods longer than 12 months and for abandonment, lease or sale of a pipeline.	- NEB Act Section 63 ONPR Sections 91 to 96

NATIONAL ENERGY BOARD:
GUIDELINES FOR THE REGULATION OF
THE TOLLS AND TARIFFS OF GROUP 2 COMPANIES*

Tolls and Tariffs

For Group 2 companies, the Board will regulate tolls and tariffs pursuant to Part IV of the National Energy Board Act on a complaint basis.

- Companies shall charge only tolls that are specified in a tariff that has been filed with the Board and is in effect.
- Companies shall provide copies of the tariff to shippers and interested parties concurrently with filing with the Board.
- Upon receipt of a written complaint, or other application under Part IV of the NEB Act, the Board will consider making the toll interim, pending further review.
- The Board on its own initiative may review a toll and request such additional information as it may require.

Under the regulation by complaint approach, Group 2 companies will not normally be required to provide, in support of a toll filing, the detailed toll and financial information specified in the existing Parts V and VII of the Schedule to the Board's Rules of Practice and Procedure. It is the responsibility of pipeline companies to make appropriate arrangements with shippers to provide, on request, sufficient supporting information to enable shippers to ascertain the reasonableness of tolls filed and to determine whether a complaint is warranted. If a complaint is received, or the Board decides on its own initiative to examine the tariff, the Board may require some or all of the information identified in Parts V and VII. Given that the pipeline companies maintain effective communications with their shippers and interested parties, and provide sufficient supporting information and notice of pending changes to tariffs, the Board expects that the number of complaints will be small.

* Group 2 companies currently regulated by the Board are listed in Schedule A.

Financial Reporting

The Board normally will not require Group 2 companies to provide any financial information for the purpose of monitoring construction costs or tolls. These companies will be exempted from the new Construction Cost and Financial Information Regulations when these are implemented to replace the existing Toll Information Regulations.

Standard Code of Accounts

The NEB's Uniform Accounting Regulations are being amended to exempt Group 2 companies from the requirement to keep a standard code of accounts as prescribed in the regulations. The Board normally will require only that these companies keep a separate book of accounts in Canada in accordance with generally accepted accounting principles and file audited financial statements at the end of the company's fiscal year.

NATIONAL ENERGY BOARD
OTTAWA, K1A 0E5

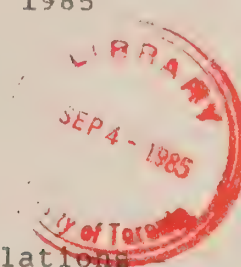


OFFICE NATIONAL DE L'ÉNERGIE
OTTAWA, K1A 0E5

CA1
MT 76
- N 53

File: N150-3/46

21 August 1985



To: Interested Parties

Re: Construction Cost and Financial Information Regulations
Request for Final Comments

The National Energy Board has been reviewing the appropriate level of reporting of pipeline construction costs and toll-related information for some time. Draft Construction Cost and Toll Reporting Regulations were issued for comment on 28 October 1983. Substantive industry comments were received through two committees - the Large Oil Pipeline Committee and the Large Gas Pipeline Committee. At the request of the Large Oil Pipeline Committee, the Board deferred implementation of the proposed regulations pending resolution of Toll Application Procedures for companies which own and operate large oil pipelines. These Toll Application Procedures have now been implemented.

The Construction Cost and Financial Information Regulations which are attached take into account the comments received from the pipeline committees.

The significant features of the proposed regulations are as follows:

- The regulations will apply only to Group 1 companies (large pipeline companies) under the Board's jurisdiction;¹
- A final design cost estimate will be required prior to the commencement of construction pursuant to a certificate, together with explanations of variances from the original estimate where applicable;
- A quarterly status report will be required for all construction authorized by a certificate;

¹ The Group 1 companies, as defined by Schedule I of the regulations, are: Alberta Natural Gas, Cochin, Foothills, Interprovincial, Interprovincial (NW), TransCanada, Trans Mountain, Trans-Northern, Trans Québec & Maritimes and Westcoast.

- Annual reports of construction and changes to rate base will be required; these will include information on completed projects, construction in progress, retirements and plant not in service;
- Financial information reporting requirements have been identified separately for oil and gas pipeline companies and for those on fixed tolls and those on variable cost of service.

The Construction Cost and Financial Information Regulations are intended to replace the existing Toll Information Regulations and the 1966 Memorandum of Guidance on Construction Cost Reporting, in respect of Group 1 companies. For Group 2 companies, please refer to the Board's Memorandum of Guidance dated 13 August 1985 re: "Regulation of Group 2 Companies". These companies will not be required to comply with the Construction Cost and Financial Information Regulations.

Because of the passage of time since the consideration of the earlier draft regulations and because of significant changes in the regulation of small pipelines, the Board is sending out the proposed Construction Cost and Financial Information Regulations for further comments.

Parties are requested to provide final comments to the Board on the proposed regulations by 15 October 1985.

Yours truly,



G. Yorke Slader
Secretary

Construction Cost and Financial Information Regulations

REGULATIONS RESPECTING CONSTRUCTION COST AND
FINANCIAL INFORMATION REPORTS TO BE FURNISHED
BY COMPANIES THAT CONSTRUCT OR OPERATE A PIPELINE

Short Title

1. These Regulations may be cited as the Construction Cost and Financial Information Regulations.

Application

- 2.(1) Group 1 companies shall comply with the provisions of these Regulations.
- (2) In this section, "Group 1 companies" means the companies listed in Schedule I.

Definitions

3. In these Regulations,

"Act" means the National Energy Board Act;

"account" means the applicable account under the Gas Pipeline Uniform Accounting Regulations or the Oil Pipeline Uniform Accounting Regulations;

"Board" means the National Energy Board;

"category of cost" or "cost category" means each main component of pipeline project costs; for oil pipelines the cost categories include pipeline, pumping stations, tankage, metering stations and overhead; for gas pipelines the cost categories include pipeline, compressor stations, storage facilities, metering stations and overhead;

"certificate" means certificate of public convenience and necessity issued pursuant to Section 44 of the National Energy Board Act;

"construction" means all work along the pipeline right-of-way done by or for the company from the first entry into the right-of-way, other than the act of surveying, until the end of clean-up;

"element of cost" or "cost element" means each item resulting from the breakdown of each cost category into materials, labour, installation, allowance for funds used during construction and other;

"exemption order" means an order made by the Board pursuant to Section 49 of the National Energy Board Act;

"extraordinary retirement" means, in respect of depreciable plant, a retirement of depreciable plant that results from causes not reasonably assumed to have been anticipated or contemplated in prior depreciation or amortization provisions, including such causes as fire, storm, flood, premature obsolescence or unexpected and permanent shutdown of an entire operating assembly for reasons other than normal wear and tear;

"final design cost estimate" means the aggregate project cost estimate based on final design prior to construction;

"original estimated cost" or "original cost estimate" means the aggregate project cost supporting an application approved under Sections 44 or 49 of the Act;

"plant" means any installation or property the cost of which is to be recorded in the Plant Accounts listed in Schedule IV of the Gas Pipeline Uniform Accounting Regulations or Schedule II of the Oil Pipeline Uniform Accounting Regulations;

"project" means an undertaking for which a company has received individual authorization from the Board;

"rate base account" includes,

(a) in respect of a gas pipeline, the following accounts:

- (i) gas plant in service (account 100),
- (ii) gas plant leased to others (account 101),
- (iii) gas plant held for future use (account 102),
- (iv) retirement work in progress (account 103),
- (v) accumulated depreciation - gas plant (account 105),
- (vi) accumulated amortization - gas plant (account 106),
- (vii) improvements to facilities leased from others
(account 107),
- (viii) gas plant under construction (account 115), and
- (ix) contributions and grants (account 278); and,

(b) in respect of an oil pipeline, the following accounts:

- (i) transportation plant (account 30),
- (ii) accumulated depreciation - transportation plant
(account 31),
- (iii) accumulated amortization - transportation plant
(account 32),
- (iv) operating oil supply (account 33),
- (v) improvements to leased facilities (account 36),
- (vi) accumulated amortization - improvements to leased
facilities (account 37),
- (vii) transportation plant leased to others (account 38),
and
- (viii) transportation plant under construction (account
39).

General

4. When filing information required by these regulations, twenty (20) copies shall be provided. Such information will be considered public and will be available to interested parties upon request.

PART I

Reporting of Construction Costs and Changes to Rate Base

5. Prior to commencing construction of a project that is authorized by certificate, a Group 1 company shall file a detailed final design cost estimate, and if the final design cost estimate differs from the original estimated cost by more than 10 percent, provide a full explanation of the differences between the final design cost estimate and the original estimated cost.

6. During construction of a project that is authorized by certificate, a Group 1 company shall file, for each three-month period after commencing construction, and within 45 days from the end of such period, a report which shall indicate by category of cost:

- (a) the costs actually incurred to date;
- (b) the percentage of the project completed to date;

- (c) the current estimated cost to completion of the project;
and
- (d) an explanation of variances by element of cost when the current estimated cost to completion of the project differs from the final design cost estimate by more than 10 percent.

7. All Group 1 companies shall, by 30 April of each year, furnish to the Board:

- (a) details of every project completed by it during the previous calendar year, if any,
 - (i) listing individually those projects authorized by a certificate or order issued by the Board and, if any, those projects not authorized by a certificate or order of the Board,
 - (ii) indicating for each project the costs actually incurred to date and the estimated cost to completion,
 - (iii) indicating, in respect of each project authorized by the Board, the original cost estimate or the final design cost estimate, as appropriate,
 - (iv) indicating, in respect of each project not authorized by the Board, the cost estimate upon which the company undertook the project,
 - (v) explaining for each project, by reference to the individual elements of cost making up the totals,

any difference where the estimated cost to completion exceeds the original estimated cost or the final design cost estimate, as appropriate, by the greater of \$50,000 or more than 10 percent, and

- (vi) the date or dates on which items of plant have been placed in service;
- (b) details of all projects under construction at the end of the previous calendar year,
 - (i) listing each project authorized by a certificate or order issued by the Board and, if any, each project not authorized by a certificate or order of the Board, and
 - (ii) indicating for each project the costs actually incurred to date, the percentage of the project completed to date, and the current estimated cost to completion of the project; and,
- (c) schedules for each rate base account, showing the balance at the beginning and end of the previous calendar year reconciling project costs in (a) and (b) above and showing in adequate detail the basis for changes in the accounts.

8. All Group 1 companies shall, by 30 April of each year, furnish to the Board in respect of the previous calendar year, details of all retirements of plant including:

- (a) in respect of the retirement of individual items of plant the original cost of which is in excess of \$50,000, the following information,
 - (i) description,
 - (ii) date of disposal,
 - (iii) related Board order or certificate,
 - (iv) original cost,
 - (v) accumulated depreciation,
 - (vi) net book value, and
 - (vii) reasons for disposal;
- (b) in respect of the retirement of individual items of plant the original cost of which is not in excess of \$50,000, the following information for all such items in aggregate;
 - (i) original cost,
 - (ii) accumulated depreciation,
 - (iii) net book value; and,
- (c) a list of all extraordinary retirements of plant which are currently being amortized together with the rate of amortization and the unamortized balance.

9. All Group 1 companies shall, by 30 April of each year, furnish to the Board details of any plant that is not currently used in pipeline operations including:

- (a) a brief description of the plant, including its location,
- (b) original cost,

- (c) accumulated depreciation,
- (d) net book value, and
- (e) an explanation of why the plant is not used.

PART II

Reporting of Financial Information

10. Every Group 1 company that constructs or operates a gas pipeline and charges a variable cost of service toll, namely Alberta Natural Gas Company Ltd, and Foothills Pipe Lines (Yukon) Ltd., shall furnish to the Board:

- (a) within sixty (60) days after the end of each quarter of the calendar year, information on its capital structure at the end of the quarter, and its cost of debt and rate of return on equity for the cumulative period.

11. Every Group 1 company that constructs or operates a gas pipeline and charges fixed tolls, namely TransCanada PipeLines Limited, Trans Québec & Maritimes Pipeline Inc., and Westcoast Transmission Company Limited, shall furnish to the Board:

- (a) within forty-five (45) days after the end of each quarter of the test year, for the period and for the cumulative period, information explaining significant variances between the results obtained from charging tolls and the

forecast figures on which the tolls were determined, in respect of capital, traffic, revenues, expenses and rates of return; and,

- (b) a detailed quarterly breakdown of the test year forecast, within thirty (30) days of the effective date of new tolls.

12.(1) Every Group 1 company, with the exception of Cochin Pipe Lines Ltd., that constructs or operates an oil pipeline and charges fixed tolls that are subject to toll application procedures, namely Interprovincial Pipe Line Limited, Trans Mountain Pipe Line Company Ltd., and Trans-Northern Pipelines Inc., shall furnish to the Board:

- (a) within forty-five (45) days after the end of each quarter of the test year, actual test year results to date by quarter and revised forecasts for the full test year by quarter for the following: revenue, cost of service, return and rates of return on rate base and equity, supported by appropriate information which should include an explanation of significant variances;
 - (b) within thirty (30) days after the end of each month, revised forecasts of throughput and rate of return on equity for the full test year; and,
 - (c) a detailed quarterly breakdown of the test year forecast, within thirty (30) days of the effective date of new tolls.
- (2) In this section "toll application procedures" means

- (i) with respect to Interprovincial Pipe Line Limited, Board Order No. TO-4-80, as amended,
- (ii) with respect to Trans Mountain Pipe Line Company Ltd., Board Order No. TO-5-85, as amended, and
- (iii) with respect to Trans-Northern Pipelines Inc., Board Order No. TO-6-85, as amended.

13. Every Group 1 company that constructs or operates an oil pipeline and charges fixed tolls based on a full cost of service tariff, namely Interprovincial Pipe Line (NW) Ltd., shall furnish to the Board:

- (a) within forty-five (45) days after the end of each quarter of the test year, actual test year results to date by quarter and revised forecasts for the full year by quarter of the throughput and full cost of service supported by appropriate information which should include an explanation of significant variances; and,
- (b) a detailed quarterly breakdown of the test year forecast, within thirty (30) days of the effective date of new tolls.

14. Cochin Pipe Lines Ltd. shall furnish to the Board:

- (a) within forty-five (45) days after the end of each quarter of the test year, actual test year results and revised forecasts of cost of service, throughput, and rate of

return on equity for the full test year supported by appropriate information which should include an explanation of significant variances;

- (b) a detailed quarterly breakdown of the test year forecast, within thirty days of the effective date of new tolls.

15. The policies and principles used to calculate a company's approved tolls shall govern the preparation of the information provided pursuant to sections 10 to 14.

Schedule I

Cochin Pipe Lines Ltd.

Interprovincial Pipe Line Limited

Interprovincial Pipe Line (NW) Ltd.

Trans Mountain Pipe Line Company Ltd.

Trans-Northern Pipelines Inc.

Alberta Natural Gas Company Ltd

Foothills Pipe Lines (Yukon) Ltd.

TransCanada PipeLines Limited

Trans Québec & Maritimes Pipeline Inc.

Westcoast Transmission Company Limited



National Energy Board

Office national de l'énergie

CANADA

File No.: 132-27

22 November 1990

TO: ALL COMPANIES UNDER THE BOARD'S
JURISDICTION AND OTHER INTERESTED PARTIES

Re: Regulation of Group 2 Companies
Update of the Memorandum of Guidance dated 13 August 1985

The Board has now updated the Memorandum of Guidance dated 13 August 1985 on the regulation of Group 2 companies.

In 1985, following extensive public consultation, the Board concluded that a significant number of minor pipelines under its jurisdiction should be subject to a lighter degree of regulation than the major ones. The Board then decided to divide regulated companies into two groups. Companies with extensive systems are generally identified as Group 1, whereas, those with lesser operations are considered as Group 2 companies. A Memorandum of Guidance was issued in 1985 describing the reduced degree of regulation which would thenceforth govern Group 2 companies. Group 1 companies were not affected and continued to be subject to the full regulatory requirements.

Since the issuance of the Memorandum of Guidance in 1985, numerous changes have occurred to the Board's legislation and regulations. Firstly, the requirements of the *Oil Pipeline Uniform Accounting Regulations* dated February 1987 and of the *Gas Pipeline Uniform Accounting Regulations* dated March 1987 now recognize the distinction between Group 1 and Group 2 companies. Secondly, a revised version of the *Draft Rules of Practice and Procedure* dated 21 April 1987 was prepared. Thirdly, the *Pipeline Crossing Regulations, Parts I and II*, dated 18 October 1988, were established. Fourthly, the *Gas Pipeline Regulations* and the *Oil Pipeline Regulations* were revoked and were replaced by the *Onshore Pipeline Regulations* dated 8 June 1989. Finally, the *National Energy Board Act* ("NEB Act") was reconsolidated in 1988 and amended in 1990. All of the above changes have rendered the reference material in the 1985 Memorandum of Guidance out of date.

The Board continues to be of the view that a Memorandum of Guidance of this kind is appropriate. When it was issued in 1985, industry responded favourably to the new guidelines. Since then, the Board and industry have found them to be very useful.



.../2

All three Schedules of the Memorandum of Guidance have been updated. The list of Group 2 companies currently regulated by the National Energy Board has been updated in Schedule A. Schedule B has not been changed substantially in respect to the information requirements. Specifically, the last part of item 11 and items 14, 21, 27, 32, 33 and 34 have been added, and, item 20 has been replaced by item 31. No changes of substance have been made to Schedule C. References to the NEB Act, Draft *Rules of Practice and Procedure* and the above-mentioned Regulations in the Memorandum of Guidance have all been updated.

The Board's updated version of the Memorandum of Guidance, one copy of which is attached, will provide continued guidance and information to Group 2 companies.

Yours truly,

A handwritten signature in cursive script that reads "Marie Tobin".

Marie Tobin
Secretary

Attach.



File No.: 132-27

22 November 1990

MEMORANDUM OF GUIDANCE

Re: Regulation of Group 2 Companies

The subject Memorandum of Guidance is an update of the original one dated 13 August 1985 and replaces it. Most changes stem from amendments in the Board's legislation and regulations.

The companies regulated by the Board are divided into two groups. Group 1 companies are generally identified as those with extensive systems under the Board's jurisdiction, whereas those with lesser operations are considered as Group 2 companies.

This Memorandum of Guidance streamlines and simplifies, for Group 2 companies, the regulatory requirements of the *National Energy Board Act* ("NEB Act"), the *Draft Rules of Practice and Procedure*, the *Onshore Pipeline Regulations*, the *Oil Pipeline Uniform Accounting Regulations*, the *Gas Pipeline Uniform Accounting Regulations*, and, the *Pipeline Crossing Regulations*. Furthermore, it outlines the reduced degree of regulation which governs Group 2 companies. Group 1 companies are not affected and continue to be subject to the full existing regulatory requirements.

Schedule A lists Group 2 companies. Any company not in Group 1 is by definition a Group 2 company. Group 1 companies are listed below:

Alberta Natural Gas Company Ltd.
Cochin Pipe Lines Ltd.
Foothills Pipe Lines Ltd.
Gazoduc Trans Québec & Maritimes Inc.
Interprovincial Pipe Line Company, a division
of Interhome Energy Inc.
Interprovincial Pipe Line (NW) Ltd.
TransCanada PipeLines Limited
Trans Mountain Pipe Line Company Ltd.
Trans-Northern Pipelines Inc.
Westcoast Energy Inc.

.../2

Schedules B and C deal with the Board's two basic types of regulation, namely facilities and financial. The extent of those two types of regulation for Group 2 companies is as follows:

- Facilities: Schedule B sets out the minimum information requirements for the design, construction, and operation of pipelines.
- Financial: Schedule C sets out guidelines for the regulation of tolls and tariffs. Financial regulation of Group 2 companies is normally carried out on a complaint basis, with a consequent reduction in financial reporting requirements. Detailed information in support of a tariff filing will be required only after a complaint has been registered or on the Board's specific request.

The Board believes that the Memorandum of Guidance will provide continued guidance and information to Group 2 companies and to potential applicants. Even though it can be used on a stand-alone basis, explanatory details of the requirements in Schedules B and C can be found in the subject references to the NEB Act, Draft *Rules of Practice and Procedure* and the above-mentioned Regulations.

For further information, please contact the undersigned at (613) 990-3167 or Mr. Claude Rousseau, Pipeline Engineering Branch at (613) 998-7139.

Yours truly,

A handwritten signature in dark ink, reading "Marie Tobin". The script is cursive and fluid, with the first name "Marie" and last name "Tobin" clearly distinguishable.

Marie Tobin
Secretary

GROUP 2 COMPANIES
REGULATED BY THE NATIONAL ENERGY BOARD

Gas

1. Amoco Canada Petroleum Company Ltd. (inactive)
2. Amoco Canada Resources Limited (inactive)
3. A.P.R. Pipeline Company Ltd.
4. BP Resources Canada Limited (under construction)
5. Bonanza Oil and Gas Ltd.
6. Canadian Hunter Exploration Ltd.
7. Canadian-Montana Pipe Line Company
8. Champion Pipe Line Corporation Limited
9. Consumers' Gas (Canada) Limited
10. ICG Transmission Holdings Ltd.
11. Many Islands Pipe Lines (Canada) Limited
12. Mid-Continent Pipelines Limited
13. Minell Pipeline Ltd.
14. Murphy Oil Company Ltd. (inactive)
15. 167496 Canada Ltd. (approved but not built)
16. Niagara Gas Transmission Limited
17. Novacorp International Pipelines Ltd. (approved but not built)
18. Peace River Transmission Company Limited
19. POCO Petroleum Ltd.
20. Saskatchewan Power Corporation
21. SCL Quebec Pipeline Inc.
22. St. Clair Pipelines Ltd.
23. Union Gas Limited

Oil & Oil Products

1. Aurora Pipe Line Company
2. Dome Kerrobert Pipeline Ltd.
and Pan Canadian Kerrobert Pipeline Ltd.
3. Dome NGL Pipeline Ltd.
4. Dome NGL Pipeline Ltd. and Amoco
Canada Petroleum Company Ltd.
5. Esso Resources Canada Limited
6. Manito Pipelines Ltd.
7. Montreal Pipe Line Limited
8. Mont Resources Limited
9. Murphy Oil Company Ltd.
10. Northwest Transmission Company Limited
11. Petroleum Transmission Company
12. Polysar Hydrocarbons Limited
13. Pouce Coupé Pipe Line Ltd.
14. Shell Canada Products Limited
15. Sun Pipe Line Company
16. Wascana Pipe Line Ltd.
17. Westspur Pipe Line Company (1985) Inc.
18. Windsor Storage Facility Joint Venture
19. Yukon Pipelines Limited

**GUIDELINES FOR THE INFORMATION REQUIRED
TO BE FILED BY GROUP 2 COMPANIES***

The National Energy Board regulates the design, construction, operation and abandonment of pipelines under Part III of the NEB Act, the *Onshore Pipeline Regulations*, and the *Pipeline Crossing Regulations*. Applicants for pipeline facilities are required to provide the information set out in the Schedules to the NEB Draft *Rules of Practice and Procedure*.

Approval of an application for the construction or extension of a pipeline exceeding 40 kilometres in length (application pursuant to section 52 of the NEB Act) requires a Certificate of Public Convenience and Necessity which in turn requires a public hearing and approval of the Board's decision by the Governor in Council. An application for the construction of a pipeline less than 40 kilometres in length (application pursuant to section 58 of the NEB Act) can be authorized by a Board Order without a public hearing; however, the Board may wish to conduct a public hearing.

In addition to the necessity of obtaining approval to build a pipeline, a separate approval is required to open a pipeline for service or to abandon, sell, purchase or lease a pipeline.

In order to tailor the information requirements to the particular circumstances of Group 2 companies, the Board has adopted the following approach to the regulation of the construction and operation of pipelines.

I. Application for Construction

Group 2 companies wishing to apply for approval to construct and operate a pipeline and associated facilities would not normally be expected by the Board to provide all of the information set out in the Schedule to the NEB Draft *Rules of Practice and Procedure* dated 21 April 1987.

* Group 2 companies currently regulated by the Board are listed in Schedule A.

The company should provide the amount of information which it deems will enable the Board to obtain a satisfactory understanding of the project. In the case where the company has already filed any of the information referred to in items 1 to 12 below (e.g., item 6, Schematic and standard drawings), then such information need not be re-submitted with the application for construction. The table below lists the information required to be filed with references to the NEB Act, the Draft *Rules of Practice and Procedure* and the above-mentioned Regulations. Upon receiving that information, and any such information the Board additionally requests, the Board would:

- (i) for applications pursuant to section 58 of the NEB Act, issue an order, deny the application or conduct a public hearing; and
- (ii) for applications pursuant to section 52 of the NEB Act, proceed to a public hearing.

<u>INFORMATION TO BE FILED</u>		<u>REFERENCE</u>
	<u>Section 58 Application</u>	<u>Section 52 Application</u>
1. Applicant;		
2. Owner(s);		
3. Operator;		
4. Construction Schedule;	Rules* Part VII, Paragraph 3(b)(iii) Part VIII, Paragraph 3(b)(iv)	Rules Part I, Paragraph 3(f)(xi) Part II, Paragraph 3(f)(xi)
5. Evidence that there is sufficient supply and market over a sustained period to justify construction of the pipeline;	Rules Part VII, Paragraph 3(b)(vi) Part VIII, Paragraph 3(b)(vi)	Rules Part I, Subsections 3(a), 3(b), 3(c), 3(d) and Paragraph 3(f)(iv) Part II, Subsections 3(a), 3(b), 3(c), 3(d) and Paragraph 3(f)(iv)

* Rules = Parts to Schedule II of the NEB Draft *Rules of Practice and Procedure* dated 21 April 1987

INFORMATION TO BE FILED

REFERENCE

	<u>Section 58 Application</u>	<u>Section 52 Application</u>
6. Schematic and standard drawings;	Rules Part VI, Paragraph 5(c)(i) Part VII, Subsection 3(b) Part VIII, Subsection 3(b) OPR* Section 8	Rules Part I, Subsection 3(f) Part II, Subsection 3(f) Part VI, Paragraphs 5(b)(i) and 5(c)(i) OPR Section 8
7. Technical description of the project with a list of materials including specifications (line pipe, valves, pumps, compressors, etc.);	Rules Part VII, Subsections 3(b) to 3(i) Part VIII, Subsections 3(b) to 3(g) OPR Parts I and II	Rules Part I, Subsections 3(f) to 3(l) Part II, Subsections 3(f) to 3(k) OPR Parts I and II
8. Site plan with the description of the location of new land and land rights to be acquired;	Rules Part VI, Subsections 5(c) and 5(d) Part IX, Section 3 NEB Act Sections 86 and 87	Rules Part VI, Section 5 Part IX, Section 3 NEB Act Sections 86 and 87
9. Present zoning of the preferred site and the zoning and current land use within 500 metres of any facility site or right-of-way;	Rules Part VI, Subsections 5(c) and 5(d) Part VII, Subsection 3(c) Part VIII, Subsection 3(c) Part IX, Section 3 NEB Act Sections 86 and 87	Rules Part I, Paragraph 3(f)(vii) Part II, Paragraph 3(f)(vii) Part VI, Section 5 Part IX, Section 3 NEB Act Sections 86 and 87

* OPR = *Onshore Pipeline Regulations* dated 8 June 1989

INFORMATION TO BE FILED

REFERENCE

	<u>Section 58 Application</u>	<u>Section 52 Application</u>
10. Assessment of any potential environmental impacts within an appropriate distance of the right-of-way or of any facility site, including proposals for their mitigation, and a description of the condition to which the right-of-way is to be restored;	Rules Part VI, Subsections 5(c), 5(d) and 5(e) OPR Sections 27 to 29	Rules Part VI, Section 5 OPR Sections 27 to 29
11. Cost estimate with information to demonstrate that the project is required by the public convenience and necessity (economic justification), and statement on how the project will be financed; and	Rules Part VII, Subsection 3(a), Paragraphs 3(b)(ii), 3(b)(vii), 3(b)(viii) and Subsection 3(k) Part VIII, Subsection 3(a), Paragraphs 3(b)(ii), 3(b)(vii), 3(b)(viii) and Subsection 3(i)	Rules Part I, Subsection 3(e), Paragraph 3(f)(i), Subsections 3(m), 3(n), 3(o) and 3(q) Part II, Subsection 3(e), Paragraph 3(f)(i), Subsections 3(l), 3(m), 3(n) and 3(p)
12. Statement of procurement policies used to ensure that Canadian firms will be given a fair and adequate opportunity to participate in engineering, material and service supply to projects (or appropriate reference to information already on file with the Board).	Rules Part VII, Subsection 3(j) Part VIII, Subsection 3(h) NEB Act Subsection 52(d)	Rules Part I, Subsection 3(p) Part II, Subsection 3(o) NEB Act Subsection 52(d)

II. Pre-Construction

Following approval of the application for construction, but prior to commencing construction, the applicant must normally provide the following additional information. Note that some of this information could be provided with the application for construction in section I above.

INFORMATION TO BE FILED

REFERENCE (Sections 52 and 58)

- | | | |
|-----|--|--|
| 13. | Field joining Program (for Board approval); | OPR
Part III |
| 14. | Construction Safety Manual (for Board approval); | OPR
Sections 24 to 26 |
| 15. | Plan, Profile and Book of Reference; and | NEB Act
Subsections 31.(c), 33.(1), (2) and (3) |
| 16. | Notice for service and publication with respect to detailed routing and land acquisition.* | NEB Act
Section 34 |

* Once a company has obtained authorization to build or extend a pipeline, it must comply with the requirements of the NEB Act relating to land acquisition and determination of the detailed route of the pipeline. The provisions of the NEB Act dealing with land acquisition can be found in sections 85 and following of the NEB Act. Those sections set out the specific requirements relating to the content of acquisition agreements, notification and procedures. With respect to determination of the detailed route of the pipeline, once facilities have been approved, the company must file plans and profiles, unless exemption from that requirement is granted under the provisions of section 58. The company should have regard to Section 33 and following of the NEB Act which explain the requirements for notification of land owners and procedures to be followed for the determination of the detailed route.

III. Construction

During construction and prior to the commencement of testing a pipeline or any portion thereof, the applicant must normally provide the following information. Note that some of this information could be provided with the application for construction (Section I above), or, during pre-construction (Section II above).

INFORMATION TO BE FILED**REFERENCE**
(Sections 52 and 58)

- | | | |
|-----|---|---------------------------------|
| 17. | Details of any unplanned interruption of the operation of a utility being crossed by the pipeline under construction; | OPR
Section 59 |
| 18. | Application for Board's approval if the criteria for the acceptance of imperfections in field joints are different from the CSA workmanship criteria; | OPR
Section 23 |
| 19. | Field Testing Manual (for Board approval); | OPR
Part V |
| 20. | Description of the non-destructive examination of field joints; and | OPR
Section 22 |
| 21. | Report on construction incidents. | OPR
Sections 60 to 63 |

IV. Leave-to-Open Application

Before a pipeline is opened for operation, the Board must be satisfied that it is in such a condition that it can be operated safely. Upon application, unless the company has been exempted pursuant to section 58 of the NEB Act, the Board issues a "Leave-to-Open" Order. When a company applies to the Board for a "Leave-to-Open" Order, it must submit an affidavit, signed by a company engineer.

INFORMATION TO BE FILED

**REFERENCE
(Sections 52 and 58)**

This affidavit shall:

- | | |
|---|---|
| 22. State the standards to which the pipeline facilities have been designed, constructed or repaired; | NEB Act
Paragraph 30(1)(b)
and Section 47
OPR
Part VI |
| 23. Certify that the line pipe and components used on the pipeline meet the specifications submitted pursuant to item 7 above; | " |
| 24. Certify that the field joints:

(i) were made in accordance with the field joining specifications and procedures submitted pursuant to item 13 above;

(ii) meet the standards of acceptability submitted pursuant to item 18 above; and

(iii) were nondestructively examined in accordance with the procedures submitted pursuant to item 20 above; | " |
| 25. Certify that the pipeline facilities have been tested in accordance with the pressure testing program referred to in item 19 above; and | " |

INFORMATION TO BE FILED

REFERENCE
(Sections 52 and 58)

26. State that the pipeline facilities may be safely opened for its intended service.

"

In its application for Leave-to-Open, the company should also:

27. State that it has an Operation and Maintenance as well as Emergency Procedures Manuals in place.

OPR
Sections 48 and 49

V. Operation

For an operating pipeline, the operator shall normally provide the following:

28. On 31 December following the first full growing-season after the pipeline commences operation, a letter setting out a detailed list of sites not recovered to the condition intended in item 10 above, and the proposed action to be taken on those sites;

OPR
Sections 58 and 59

29. Application for additions to or alterations of facilities;

NEB Act
Section 58

30. Incident reports;

OPR
Sections 60 to 63

31. Annually, at a date convenient to the operation of the pipeline, a list of every permission granted, during a twelve month period, for the construction or installation of facilities across the pipeline, or a statement of no activity for the period; and

PCR*
Part II Section 12

* PCR = Pipeline Crossing Regulations dated 17 October 1988

INFORMATION TO BE FILED

REFERENCE
(Sections 52 and 58)

32. Immediate notification of:

(i) every violation of the provisions of the **PCR**;

(ii) all damage to its pipeline caused by a third party;

PCR
Part II Section 13

(iii) any excavation or construction activity by a third party considered potentially hazardous to its pipeline; and

(iv) the suspension of permission due to unsafe construction practices.

PCR
Part II Section 14

For an operating pipeline, the operator shall ensure compliance with the following:

33. Safety Training Programs; and

OPR
Section 56

34. Records Retention.

OPR
Part IX

VI. Termination of Operations

35. Applications shall be submitted for deactivation for periods longer than 12 months and for abandonment, purchase, lease or sale of a pipeline.

NEB Act
Section 74
OPR
Sections 53 to 55

**GUIDELINES FOR THE REGULATION OF
THE TOLLS AND TARIFFS OF GROUP 2 COMPANIES***

Tolls and Tariffs

For Group 2 companies, the Board regulates tolls and tariffs pursuant to Part IV of the NEB Act on a complaint basis.

- Companies shall charge only tolls that are specified in a tariff that has been filed with the Board and is in effect.
- Companies shall provide copies of the tariff to shippers and interested parties concurrently with filing with the Board.
- Upon receipt of a written complaint, or other application under Part IV of the NEB Act, the Board will consider making the toll interim, pending further review.
- The Board on its own initiative may review a toll and request such additional information as it may require.

Under the regulation by complaint approach, Group 2 companies will not normally be required to provide, in support of a tariff filing, the detailed toll and financial information specified in Parts IV and V of Schedule II to the Board's Draft *Rules of Practice and Procedure*. It is the responsibility of pipeline companies to make appropriate arrangements with shippers to provide, on request, sufficient supporting information to enable shippers to ascertain the reasonableness of tolls filed and to determine whether a complaint is warranted. If a complaint is received, or the Board decides on its own initiative to examine a tariff, the Board may require some or all of the information identified in Parts IV and V. Given that the pipeline companies maintain effective communications with their shippers and interested parties, and provide sufficient supporting information and notice of pending changes to tariffs, the Board expects that the number of complaints will be small.

Accounting Requirements and Financial Reporting

The NEB's *Oil Pipeline Uniform Accounting Regulations* dated February 1987 and the *Gas Pipeline Uniform Accounting Regulations* dated March 1987 exempt Group 2 companies from the requirement to keep a standard code of accounts as prescribed in the regulations. The Board normally requires only that those companies keep a separate book of accounts in Canada, in accordance with generally accepted accounting principles, and file with the Board audited financial statements within one hundred and twenty (120) days after the end of each fiscal year of the company.

The Board normally will not require Group 2 companies to provide any financial information for the purpose of monitoring construction costs or tolls. These companies are exempted from the *Toll Information Regulations*.

* Group 2 companies currently regulated by the Board are listed in Schedule A.

National Energy Board



Office national de l'énergie

File: 134-A000-2

29 January 1993

TO: ALL INTERESTED PERSONS

Re: REVISED NEB RULES OF PRACTICE AND PROCEDURE

On 7 May 1987 the Board issued Draft Rules of Practice and Procedure after consulting with industry. It was the Board's intention to finalize the 1987 draft and publish them in the *Canada Gazette*. However, these final steps were not taken.

The Board has made further revisions to the 1987 draft and intends, after industry and the public has been consulted on these amendments, to have the rules examined by the Department of Justice and published in the *Canada Gazette*.

The Board therefore invites comments on the attached revision of the *NEB Rules of Practice and Procedure*. Substantive changes to the 1987 draft are outlined below.

Section 12 has been amended to specify that the Board may stay an application, whether or not it has been set down for hearing, in the event that an applicant does not provide the information required in the rules or requested by the Board. This section also now states that an application that has been stayed for five years shall be deemed to be withdrawn and shall be returned to the applicant.

Section 16 has been amended to require a party referring to a document in any pleading to file it and serve a copy on all parties to the proceeding. It is no longer the responsibility of the party requesting the copy to pay for reproduction.

The provisions relating to subpoenas (section 20) now require a subpoena to be served personally on the person to whom it is directed at least 48 hours before the date the person is to attend as a witness.

Information requests may now only be served on any party to a proceeding who has filed evidence, unless leave of the Board is granted to serve them on any other party to the proceeding. The party who has not filed evidence, but to whom the information requests are intended to be addressed, shall be given an opportunity to comment (section 34). If the Board grants this leave, subsection 36(6) deems that the written evidence of the party to whom the information requests were addressed shall include the party's intervention and the response to the information request.

.../2

An opening statement of a witness is required by section 37 to be filed and served on all parties at least one clear business day prior to the presentation of the evidence of the witness.

The review and rehearing procedures in Part V of the rules have been amended to make the process a one-step procedure, whereby an applicant will be required to file, not only the grounds it considers sufficient to raise a doubt as to the correctness of the decision, but also indicate prejudice or hardship that will result or has been done, and the nature of the relief applied for. An application for review or rehearing will now be required to be filed within 30 days after the release of the decision or order sought to be reviewed or reheard unless leave from the Board is granted.


The Board will have several options available to it upon receiving an application for review, including dismissing the application if it is of the view that a *prima facie* case as to the correctness of the decision has not been made or issuing directions on procedure inviting comments. Section 45 indicates what those directions shall include. If a stay is applied for, the Board may make the order, dismiss the application or issue directions on procedure which shall contain the provisions in subsection 46(6).

Subsection 50(4) has been amended so that a notice for plans, profiles and books of reference need not show the size of the area covered and the population density.

The schedules attached to the rules have been amended as well. The forms in Schedule I relating to hearing orders and notices of public hearing have been amended to reflect current practice. Schedule II has been removed from the rules. The Board proposes to amend the filing requirements in that schedule and issue them as guidelines. This will allow greater flexibility to the Board to reflect policy and other changes in these requirements.

Parties wishing to comment on the proposed changes are requested to file 35 copies of their submission by 19 February 1993.

Copies of the revised rules (in both English and French) may be obtained by telephoning the Board's Regulatory Support Office at (403) 292-4800. For further information about the rules or the procedure for this review, contact Margery Fowke, Legal Counsel, at (403) 299-2708.



J. S. Richardson
Secretary

DRAFT

NEB RULES OF PRACTICE AND PROCEDURE

Revised 22 January 1993

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The National Energy Board, pursuant to section 8 of the *National Energy Board Act*, hereby revokes the *National Energy Board Rules of Practice and Procedure*, C.R.C. 1978, c. 1057, as am. and makes the annexed Rules of practice and procedure of the National Energy Board in substitution therefor.

RULES OF PRACTICE AND PROCEDURE OF THE NATIONAL ENERGY BOARD

Short Title

1. These Rules may be cited as the *NEB Rules of Practice and Procedure*.

Interpretation

2. In these Rules,

"Act" means the *National Energy Board Act*; (*Loi*)

"affidavit" includes a written affirmation; (*affidavit*)

"application" means an application to the Board under the Act or regulations and includes a complaint; (*demande*)

"complaint" means a complaint made to the Board that alleges anything to have been done or omitted to have been done in contravention or violation of the provisions of the Act or regulations; (*plainte*)

"hearing officer" means a person authorized by the Secretary to act on behalf of the Secretary at a public hearing; (*agent d'audience*)

"information request" means any request in writing for information or particulars made to a party to a proceeding; (*demande de renseignements*)

"intervenor" means an interested person who intervenes in a proceeding pursuant to section 31 or a person who files an answer to a complaint pursuant to subsection 26(2); (*intervenant*)

"original proceeding" means

(a) in respect of an application for a review pursuant to subsection 21(1) of the Act, the proceeding that gave rise to the order or decision in respect of which the review is sought,

(b) in respect of an application for a rehearing pursuant to subsection 21(1) of the Act, the proceeding commenced by the application in respect of which the rehearing is sought, and

(c) in respect of an application for leave to appeal to the Federal Court of Appeal pursuant to subsection 22(1) of the Act, the proceeding giving rise to the order or decision in respect of which leave to appeal is sought; (*instance initiale*)

"party" means an applicant, a person filing a complaint, or an intervenor; (*partie*)

"proceeding" means a proceeding before the Board under the Act or regulations; (*instance*)

"regulations" means any regulations made under the Act. (*règlement*)

Application of Rules

3. (1) Subject to subsection (2) and section 4, these Rules apply in respect of every proceeding.

(2) These Rules do not apply in respect of a proceeding commenced by an application for leave to open a pipeline or section thereof under section 47 of the Act, to a proceeding commenced by an application under the *National Energy Board Substituted Service Regulations* or to a proceeding under Part II of the Act.

Extension of Rules

4. The Board may, by public notice, order or any other means that the Board considers appropriate, direct that these Rules or any provision thereof shall apply, with such modifications as the circumstances require, in respect of any proceeding to which these Rules would not otherwise apply.

PART I

GENERAL

Dispensing with Rules

5. In any proceeding, the Board may dispense with, vary or supplement these Rules.

Directions on Procedure

6. In any proceeding, the Board may issue directions on procedure and those directions shall govern the conduct of the proceeding and prevail over any provision of these Rules that is inconsistent with those directions.

Extending or Abridging Time

7. The Board may extend or abridge the time fixed by these Rules or otherwise fixed by the Board and may do so on application whether or not the application to extend or abridge the time is made after the time so fixed has expired.

Service

8. (1) Subject to subsection (2), and except where otherwise provided, service of any notice or other document may be effected by hand delivery, mail, courier, telex, facsimile or other means of communication, if the party being served has the necessary facilities for accepting service in such manner.

(2) Where a public hearing is in progress, service of any document for the hearing may be effected

(a) by making copies of the document available to the parties present at the hearing; and

(b) by giving a copy of the document, on request, to any party to the hearing who has not received a copy of the document.

(3) Where any document is required to be served, it shall set out the names of the persons on whom it is required to be served or shall otherwise indicate the persons on whom it is required to be served.

(4) Where any document is required to be served on a person, the date of service of the document is the date the person actually received it.

(5) Subject to section 25, where a party to a proceeding serves a document that is required to be served, the party shall, at the request of the Board, file with the Secretary, an affidavit that sets out the means taken to effect service.

Filing of Documents

9. (1) Where any document is required to be filed, the date of filing of the document is the date the Secretary or person authorized by the Secretary to receive the document actually receives it.

(2) A document to be filed with the Board may be filed with the Secretary by hand delivery, mail, courier, telex, facsimile or other means of communication, if the Board has the necessary facilities for filing in such manner.

(3) Where a public hearing is in progress, any document in respect of the hearing that is required to be filed with the Secretary shall be filed with the hearing officer present at the hearing.

Affidavits

10. (1) Affidavits in proceedings shall be filed with the Secretary.

(2) Where an affidavit is made as to belief, the grounds on which the belief is based shall be set out in the affidavit.

Verification

11. (1) Where a person files a document with the Board, the Board may give a notice to the person to verify the document or any part thereof by affidavit.

(2) Where, pursuant to subsection (1), the Board gives a notice to a person to verify a document or any part thereof and the person does not comply with the notice, the Board may set aside the document or strike out the part thereof that was not verified in accordance with that subsection.

Failure to Comply

12. (1) Where an applicant fails to provide the information required by subsection 28(4) or does not respond to a request for information from the Board, the Board may stay the application until the information is provided, whether or not the application has been set down for a hearing.

(2) Where a party to a proceeding does not comply with these Rules or any directions issued by the Board, the Board may stay the proceeding until the Board is satisfied that the Rules or directions are complied with or may take such other steps as the Board considers just and reasonable.

(3) Where, pursuant to subsections (1) or (2), or for any other reason an application or proceeding has been stayed for five years, the application stayed or the application giving rise to the proceeding shall be deemed to have been withdrawn and shall be returned to the applicant.

Formulation of Issues

13. The Board may formulate issues that it will consider in a proceeding if, in the opinion of the Board,

- (a) the documents filed with the Board do not sufficiently raise the matters in issue in the proceeding,
- (b) the formulation of issues would assist the Board in the conduct of the proceeding, or
- (c) the formulation of issues would assist the parties to the proceeding to participate more effectively in the proceeding,

and, to assist the Board in the formulation of issues, may direct parties to propose issues.

Questions of Law

14. Where, in the opinion of the Board, there is a question or issue of law, of jurisdiction or of practice or procedure that should be decided before a proceeding continues, the Board may

- (a) direct that the question or issue be raised for a determination by the Board, or
- (b) direct that the question or issue be referred to the Federal Court of Appeal for a decision,

and the Board may, pending the determination of the question or issue, stay the whole or any part of the proceeding.

Conference

15. The Board may convene a conference with the parties to a proceeding, or may direct the parties to make submissions in writing, for the purpose of formulating issues and considering

- (a) the clarification or simplification of issues;
- (b) the necessity or desirability of amending an application, an answer, an intervention or a reply for the purpose of clarification, amplification or limitation;
- (c) the admission of certain facts or the proof of them by affidavit, or the use by any party of documents of a public nature;
- (d) the settling of matters connected with information requests;
- (e) the procedures to be adopted in the proceeding;
- (f) the mutual exchange among the parties of documents and exhibits; and
- (g) any matter that could aid the simplification and disposition of the proceeding.

Production of Documents

16. Unless leave of the Board is received, where in an application, a notice of motion, an answer, an intervention, a reply or a response to an information request, a party to a proceeding refers to a document that the party intends to rely on in the proceeding, the party shall file the document and serve a copy of it on all parties to the proceeding.

Additional Information

17. At any time in a proceeding, the Board may require a party to provide such further information, particulars or documents as the Board considers necessary to enable the Board to obtain a full and satisfactory understanding of the subject matter of the proceeding.

Information Requests

18. (1) Where, in these Rules or in any directions on procedure issued by the Board, information requests are permitted to be directed to a party to a proceeding, the information requests shall be

- (a) addressed to the party;

(b) numbered consecutively in respect of each item of information requested; and

(c) served, where the Board has set a time limit for service, within the time limit.

(2) A copy of any information request directed to a party to a proceeding pursuant to subsection (1) shall be filed with the Secretary and served on all other parties to the proceeding.

Responses to Information Requests

19. (1) Subject to subsection (2), where, in these Rules or in any directions on procedure issued by the Board, a person is permitted to direct information requests to a party to a proceeding and the information requests have been served on the party, the party shall

(a) within any time limit that the Board may fix, provide a full and adequate response to each information request on separate pages; and

(b) file with the Secretary and serve on all other parties to the proceeding a copy of the responses.

(2) A party to a proceeding who is unable or unwilling to provide a full and adequate response to an information request shall, within any time limit the Board may have fixed,

(a) where the party objects to providing the information requested, provide a response stating the objection and setting out the grounds therefor; or

(b) where the party contends that the information necessary to provide a response is not available, provide a response that sets out the reasons for the unavailability of the information and provide alternative available information that the party considers would be of assistance to the party directing the information request,

and file with the Secretary and serve on all parties to the proceeding a copy of the response provided.

Subpoenas

20. (1) A subpoena, which may be obtained from the Secretary on request by a party to a proceeding, shall be signed by the Secretary and sealed by the Secretary with the Board's seal, and may be served by the party in any part of Canada.

(2) A subpoena shall be in the form set out in Form 1 of Schedule I and may be issued in blank, may be completed by the party on whose behalf it is issued or the party's solicitor and may set out the names of any number of persons required to appear before the Board.

(3) No person served with a subpoena by a party to a proceeding is required to appear before the Board pursuant to the subpoena unless the person has been paid or tendered conduct money in an amount sufficient to cover the person's reasonable fees and travelling expenses.

(4) A subpoena shall be served personally on the person to whom it is directed at least two clear business days before the date for the attendance of the person as a witness.

Evidence in Other Proceedings

21. Subject to subsection 28(5), in a proceeding, information or evidence that was received

(a) in another proceeding before the Board, or

(b) by any board, commission or tribunal of a province, a territory, or of Canada,

or any report, finding or order made in respect of the information or evidence may, by leave of the Board, be received in evidence in the proceeding.

Form of Documents

22. (1) Every document filed with the Board in connection with a proceeding shall be endorsed with the file number, and hearing order number of the Board and a short phrase summarizing the nature of the proceeding.

(2) Where any application or intervention or other document or part thereof submitted by any party to a proceeding in connection with the proceeding is revised or amended,

(a) each revised or amended page shall indicate

(i) the date of the revision or amendment, and

(ii) the portion of the page revised or amended by means of a vertical line, an asterisk or any other similar marking, in the right-hand margin opposite to the revision or amendment; and

(b) each revision or amendment shall be accompanied by a statement explaining the nature of the revision or amendment.

Amendments

23. In a proceeding, the Board may, on condition or otherwise,

- (a) allow any amendment to any document;
- (b) order that any document or any part thereof that may tend to prejudice, embarrass or delay the fair hearing of the proceeding on its merits be amended or struck out; or
- (c) order that any amendment that may be necessary for the purpose of hearing and determining the real question in issue in the proceeding be made.

Notice of Motion

24. (1) Any matter that arises in the course of a proceeding and that requires a decision or order of the Board shall be brought before the Board by notice of motion.

(2) A notice of motion may be in any form but shall be in writing and shall contain a concise statement of the facts, the order or decision sought and the grounds therefor.

(3) A notice of motion shall be filed with the Secretary and served on all parties to the proceeding.

(4) A party to a proceeding who wishes to answer a notice of motion in the proceeding shall file with the Secretary and serve on all other parties to the proceeding, within 10 days after receipt of the notice of motion, a written answer.

(5) Where a party to a proceeding who brings a motion has been served with an answer thereto, the party may file with the Secretary and serve on all other parties to the proceeding, within five days after receipt of the answer, a written reply.

(6) Where a party to a proceeding wishes to submit a document in support of a notice of motion, an answer or a reply, the party shall attach the document to the notice, answer or reply, shall file the document with the Secretary and shall serve the document on all other parties to the proceeding.

(7) Notwithstanding subsections (2) to (6), in the case of a public hearing, a notice of motion may be given orally during the public hearing and, where it is so given, it shall be disposed of in accordance with such procedure as the Board may direct.

Publication

25. (1) Where the Board issues a public notice pursuant to an application, the applicant shall

(a) forthwith publish the public notice in such publications as the Board directs; and

(b) forthwith serve a copy of the public notice on such persons as the Board directs.

(2) An applicant referred to in subsection (1) shall make and file with the Secretary an affidavit that sets out the names and dates of the publications in which the public notice was published pursuant to paragraph (1)(a) and the means taken to effect service pursuant to paragraph (1)(b).

PART II

APPLICATIONS

Application in Writing

26. (1) Subject to subsection 24(7), an application shall be in writing, addressed to the Secretary and signed by the applicant or the authorized representative of the applicant.

(2) A complaint shall be served on any person whose conduct is the subject of the complaint and the person may, within 20 days after receipt of the complaint, submit a written statement containing the person's answer.

(3) An answer to a complaint shall be accompanied by any document that the party may wish to submit in support of the answer and shall be filed with the Secretary and served on the applicant.

Contents of Application

27. Every application

(a) shall contain a concise statement of the facts relevant to the application, the provisions of the Act or regulations under which it is made and the nature of the order or decision applied for and its purpose;

(b) shall be divided into consecutively numbered paragraphs, each of which shall be confined as nearly as may be practicable to a distinct portion of the subject of the application; and

(c) shall set out the name, address, telephone number and other telecommunications numbers, if any, of the applicant or of the authorized representative of the applicant to whom communications may be sent and on whom documents may be served.

Information Requirements

28. (1) Unless the Board otherwise directs, an application shall be accompanied by any information which is required by the Act, regulations or Board policies or guidelines to be filed with the Board or which may be useful in explaining or supporting the application.

(2) Where, at any time, an applicant is unable to file any information required by subsection (1) with the applicant's application, the applicant shall file with the application such information as is available at that time and shall state the time at which the applicant intends to file the rest of the information.

(3) Where an applicant is unwilling to file any information required by subsection (1) on the ground that the information is not relevant to the application, the applicant may file the application without the information to which objection is taken but the application shall be accompanied, in addition to the information required by subsection (1) to which no objection is taken, by a statement setting out the objection and the grounds therefor.

(4) Where the Board does not sustain an objection taken pursuant to subsection (3), the Board shall so inform the applicant and the applicant shall file the information in respect of which the objection has not been sustained.

(5) Where any information that an applicant is required by subsection (1) to file with the Board is already in the possession of the Board, the applicant may file the application without the information but the application shall be accompanied by a statement identifying the information and the circumstances under which it came into the possession of the Board.

PART III

PUBLIC HEARINGS

Directions on Procedure

29. Where the Board issues directions on procedure under this Part, the directions shall be in the form set out in Form 2 of Schedule I.

Public Notice

30. Where an application or any other matter is to be disposed of by means of a public hearing, the Board shall issue a notice of hearing in the form set out in Form 3 of Schedule I.

Interventions

31. (1) Where a public notice for a proceeding has been given pursuant to this Part, any interested person may intervene in respect of the proceeding by filing with the Secretary and serving on the applicant, if any, on or before the date set out in the notice, a written intervention that

- (a) states clearly whether the person intends to appear at the public hearing;
- (b) sets out the name, mailing address, address for personal service, telephone number and other telecommunications numbers, if any, of the person or authorized representative of the person;
- (c) describes the nature of the person's interest in the proceeding;
- (d) subject to subsection (2), states clearly the issues that the person intends to address at the public hearing or, where the person does not intend to participate actively at the public hearing, states clearly the reasons why the person's interest in the proceeding requires the intervention in respect of the proceeding; and
- (e) indicates the official language in which the person wishes to be heard at the public hearing.

(2) Where, pursuant to subsection (1), a person intervenes in respect of a proceeding and, by reason of an inability or insufficient time to study an application, is unable to include in the written intervention the information required by paragraph (1)(d), the person shall state this fact in the written intervention and shall, within 15 days after receipt of a copy of the application or 15 days after the filing of the written intervention, whichever is the later, file with the Secretary and serve on the applicant, if any, a supplement to the written intervention containing the information required by that paragraph.

(3) An intervenor, on being advised by the Secretary of the name and mailing address of any other intervenor, shall serve a copy of the written intervention and any supplement thereto on the other intervenor.

(4) The applicant and any other party to a proceeding may, within 15 days after receipt of a written intervention or of any supplement thereto, whichever is the later, serve a reply on the intervenor and shall file with the Secretary and serve on all parties to the proceeding a copy of the reply.

Letters of Comment

32. (1) Where a public notice has been given, pursuant to this Part, in respect of any proceeding, any interested person who does not wish to intervene in respect of the proceeding but who wishes to make the person's views regarding the proceeding known to the Board may file with the Secretary and serve on the applicant, if any, on or before the date set out in the notice, a letter commenting on the application or the subject matter of the proceeding that describes the nature of the person's interest in the proceeding and states clearly the person's views regarding the proceeding, together with any relevant information that would be useful in explaining or supporting those views.

(2) Subject to subsection (4), a person who files a letter pursuant to subsection (1) does not thereby acquire status as an intervenor and is not entitled to any further notice in the proceeding.

(3) The Secretary shall provide the parties to a proceeding with a copy of any letter filed pursuant to subsection (1) in respect of the proceeding.

(4) The applicant and any other party to a proceeding may, within 15 days after receipt of a letter referred to in subsection (1), serve a reply on the person who has filed the letter and shall file with the Secretary and serve on all parties to the proceeding a copy of the reply.

Information Requests

33. (1) Any party to a proceeding may direct information requests, in accordance with section 18, to any other party to the proceeding who has filed written evidence, and with leave of the Board or consent of the other party, to any other party to the proceeding.

(2) A party seeking leave under subsection (1) shall file with the Board and concurrently serve the party to whom the information requests are intended to be addressed a draft of and justification for the proposed information requests.

(3) The Board shall not grant leave pursuant to subsection (1) unless the party to whom the information requests are intended to be addressed has been given an opportunity to comment thereon.

(4) Where the Board has issued directions on procedure setting a time limit for the service of information requests, a party to the proceeding shall not, after the time limit expires, direct information requests to another party unless the other party consents to receiving the requests or the Board grants leave to direct the requests.

Application File

34. Unless the Board otherwise directs, an applicant to a proceeding shall forthwith serve on each intervenor to the proceeding

- (a) a copy of the application;
- (b) any information, particulars or documents required to be filed with the Board pursuant to section 17 or 28;
- (c) at the request of an intervenor, a copy of any information submitted to the Board which, pursuant to subsection 28(5), was not required to be filed with the application; and
- (d) any directions on procedure issued by the Board.

Evidence at a Public Hearing

35. (1) Written evidence, intended to be presented by a party as evidence at a public hearing, shall be

- (a) in written question and answer form with each line numbered; or

(b) in written form with consecutively numbered paragraphs.

(2) Subject to subsections (3) and (7), witnesses at a public hearing shall be examined *viva voce* on oath or solemn affirmation.

(3) The Board may, at any time, order that

(a) evidence of certain given facts be given by affidavit;

(b) the affidavit of any witness be read at a public hearing on such conditions as the Board thinks reasonable; and

(c) any witness be examined before a commissioner of oaths or other person who is authorized to administer oaths and who is appointed by the Board for that purpose.

(4) Subject to subsections (5) and (7), any party who wishes to present oral evidence at a public hearing shall, prior to the appearance of any witness and within any time limit set by the Board, file written evidence with the Secretary and serve a copy of it on all other parties to the proceeding.

(5) Where, pursuant to subsection (4), an intervenor files and serves written evidence, the written evidence shall be deemed to include any information provided by the intervenor in the intervenor's written intervention or in any response by the intervenor to an information request.

(6) Where the Board has granted leave pursuant to subsection 33(1), the written evidence of the party to whom the information requests were addressed shall be deemed to include the party's written intervention and the response by the party to the information request.

(7) The information contained in an application, the information filed by an applicant with the Board pursuant to section 28, the information identified by a statement referred to in subsection 28(5) and any responses by the applicant to information requests shall be deemed to constitute the written evidence of the applicant and the applicant is not, except by leave of the Board, at liberty to file additional written evidence.

(8) The Board may permit the introduction of written evidence at a public hearing as the evidence in chief of a witness who confirms *viva voce* at the hearing or, with leave of the Board, by affidavit that the written evidence was prepared by the witness or under the direction and control of the witness and is accurate to the best of the knowledge or belief of the witness.

(9) Where the Board sets a time limit in a proceeding, written evidence supplementing the written evidence referred to in subsection (4) or the additional written evidence referred to in subsection (7) shall not be filed with the Secretary or served on all parties to the proceeding after the time set except with leave of the Board.

Opening Statements

36. An opening statement of a witness must be filed with the Board and served on all parties to the proceeding at least one clear business day prior to the attendance of the person as a witness.

Sittings

37. Where a public hearing has started, the hearing shall proceed from day to day as far as may be practicable in the opinion of the Board, but the Board may, from time to time, adjourn the hearing.

Argument

38. The Board may order parties to a proceeding to submit written argument in addition to or in lieu of oral argument.

PART IV

OTHER PROCEDURES

Applications not Requiring Public Hearing

39. (1) Where the Board does not dispose of an application by way of a public hearing, the Board may

- (a) dispose of the application on the basis of the written documentation before it;
- (b) require further information to be furnished by the applicant; or
- (c) invite submissions from interested persons and issue directions on procedure in the form set out in Form 4 of Schedule I for that purpose.

(2) Where the Board invites submissions from interested persons pursuant to paragraph (1)(c), the Board may issue a public notice in the form set out in Form 5 of Schedule I.

(3) Notwithstanding that the Board has invited submissions from interested persons pursuant to paragraph (1)(c), the Board may determine that the application shall be disposed of by means of a public hearing and in that case the procedures prescribed in Part III shall apply.

(4) Submissions from any interested person in respect of an application shall be filed with the Secretary and served on the applicant in the form of a letter of intervention that describes the nature of the intervenor's interest in the application and clearly states the intervenor's views regarding the application together with any relevant information that might be useful in explaining or supporting those views.

(5) Where an applicant is served with a letter of intervention, the applicant may file a reply with the Secretary and serve a copy of it on the intervenor.

(6) Written evidence filed pursuant to directions on procedure issued pursuant to paragraph 1(c) and introduced by a party as the evidence in chief of a witness shall be supported by an affidavit of the person who prepared the evidence or under whose direction or control it was prepared attesting that the evidence is accurate to the best of the knowledge or belief of that person.

Ongoing Proceedings

40. Where any decision or order of the Board in respect of any application contemplates that the decision or order will give rise to further proceedings before the Board, the Board may issue directions on procedure with respect to the disposition of those further proceedings.

PART V

APPLICATIONS FOR REVIEW OR REHEARING

Applications

41. (1) An application for a review or rehearing pursuant to subsection 21(1) of the Act shall be in writing, filed with the Secretary and concurrently served on all parties to the original proceeding.

(2) An application for review pursuant to subsection (1) shall contain

(a) a concise statement of the facts;

(b) the grounds that the applicant considers sufficient to raise a *prima facie* case as to the correctness of the order or decision including

(i) any error of law or of jurisdiction,

(ii) changed circumstances that have arisen since the issuance of the order or decision,

(iii) new facts that have arisen since the issuance of the order or decision, and

(iv) facts that were not placed in evidence in the original proceeding and that were not discoverable by reasonable diligence;

(c) an indication of the prejudice or hardship that has resulted or will result from the Board's decision or order; and

(d) the nature of the relief applied for.

(3) An application for rehearing pursuant to subsection (1) shall contain

(a) a concise statement of the facts,

(b) the grounds that the applicant considers sufficient to raise a *prima facie* case that a rehearing is required including

(i) any error of law or of jurisdiction;

(ii) changed circumstances that have arisen since the original proceeding;

(iii) new facts that have arisen since the original proceeding; and

(iv) facts that were not placed in evidence in the original proceeding and that were not discoverable by reasonable diligence;

(c) an indication of the prejudice or hardship that has resulted or will result; and

(d) the nature of the relief applied for.

Timing

42. (1) An application for review shall be filed within 30 days after the release of the decision or order sought to be reviewed unless leave from the Board is granted.

(2) An application for rehearing shall be filed within 30 days after the close of the proceeding giving rise to the application unless leave of the Board is granted.

(3) For the purposes of subsection (2) a hearing is deemed closed on the last sitting day for an oral proceeding or the last date of submissions for a written proceeding.

Disposition

43. Upon receipt of an application for review or rehearing, the Board may

(a) dismiss the application if it is of the view that the applicant has not raised a *prima facie* case as to the correctness of the order or decision or that a rehearing is required;

(b) determine that the applicant has established a *prima facie* case and issue directions on procedure inviting submissions from interested persons on the merits of confirming, amending or overturning the Board's order or decision or rehearing the case, and on granting the order or decision applied for;

(c) issue directions on procedure inviting submissions from interested persons on whether a *prima facie* case has been made, on the merits of confirming, amending or overturning the Board's order or decision or rehearing the case, and on granting the order or decision applied for; or

(d) issue such order as it deems just and reasonable.

Directions on Procedure

44. Directions on procedure issued pursuant to paragraph 43(b) or (c) shall provide

(a) that a copy of the directions be served on all parties to the original proceeding;

(b) that persons filing submissions with the Board concurrently serve the applicant for review or rehearing and all parties to the original proceeding; and

(c) that the applicant for review or rehearing be given an opportunity to respond to all submissions and that a copy of any response filed with the Board be served concurrently on all parties to the original proceeding and any other person filing a submission.

Documents in Support

45. Any document which a party may wish to submit in support of an application, submission or response shall be filed with the Secretary and served on all parties.

Application for Stay

46. (1) Concurrently with the filing of an application for a review, an applicant may apply to the Board for an order staying the order or decision that is sought to be reviewed, pending the outcome of the application for the review.

(2) Concurrently with the filing of an application for a rehearing, an applicant may apply to the Board for an order staying the original proceeding pending the outcome of the application for the rehearing.

(3) Concurrently with the filing of an application for leave to appeal to the Federal Court of Appeal pursuant to subsection 22(1) of the Act, an applicant for leave to appeal may apply to the Board for an order staying the order or decision in respect of which leave to appeal is sought pending the outcome of the appeal.

(4) An application for a stay shall be in writing, filed with the Secretary and served concurrently on all parties to the original proceeding.

(5) Upon receipt of an application for a stay made pursuant to this section, the Board may

(a) make an order staying the order, decision or proceeding;

(b) dismiss the application for a stay; or

(c) issue directions on procedure inviting submissions from interested persons on whether a stay should be granted.

(6) Directions on procedure issued pursuant to paragraph (5)(c) shall provide

(a) that a copy of the directions be served on all parties to the original proceeding;

(b) that persons filing submissions with the Board concurrently serve the applicant for the stay and all parties to the original proceeding; and

(c) that the applicant for a stay be given an opportunity to respond to all submissions and that a copy of the response filed with the Board be served concurrently on all parties to the original proceeding.

(7) The Board may grant a stay subject to such terms and conditions as it considers just and reasonable.

Order or Decision of a Procedural Nature

47. Notwithstanding anything in this Part, an application to reconsider an order or decision of a procedural nature made in the course of a proceeding other than a decision to adjourn a public hearing for a period in excess of 60 days or for an unspecified period, may be made by notice of motion pursuant to section 24.

PART VI

APPROVAL OF PLAN, PROFILE AND BOOK OF REFERENCE

Application

48. Sections 8, 22, 26 to 35, 39 and 40 do not apply to proceedings under this Part.

49. For the purpose of sections 50 and 51, "applicant" means a company that makes an application for approval of a plan, profile and book of reference under section 33 of the Act.

Notice

50. (1) Before any notice in relation to a plan, profile and book of reference is served or published by an applicant under section 34 of the Act, the applicant shall

(a) submit to the Board for approval as to form a sample notice for service and a sample notice for publication, including for each notice a sample description of the proposed detailed route of the pipeline or power line to be included in each notice; or

(b) identify in writing, for the approval of the Board, a form of notice or forms of notices previously approved by the Board that it proposes to serve or publish in relation to the plan, profile and book of reference.

(2) Unless an alternative form of notice is approved by the Board, the description of the proposed detailed route of the pipeline or power line forming part of a notice for service on an owner of lands under section 34 of the Act shall include a plan of the lands proposed to be acquired, drawn with reference to legal survey points if such points are available, that is of a scale sufficient to identify with reasonable accuracy the location, dimensions and area of the lands in relation to any remaining adjacent lands of the owner.

(3) Every notice published under section 34 of the Act shall identify a location within or near the area covered by the plan where the plans, profiles and books of reference for that area are available for inspection unless the Board directs that the notice need not identify such a location.

(4) The notices served or published under section 34 of the Act shall not depart in any material respect from the notice approved by the Board for the service or publication.

51. Where an applicant completes the service and publication of notices under section 34 of the Act in relation to a plan, profile and book of reference, the applicant shall forthwith notify the Board in writing of the dates of the last such service and publication.

Costs

52. Sections 53 and 54 apply to the costs referred to in section 39 of the Act in relation to a public hearing held under subsection 35(3) of the Act.

53. A person who has made representations to the Board at a public hearing held under subsection 35(3) of the Act shall prepare an itemized statement of the actual costs reasonably incurred by that person for the purposes of the hearing and shall send on the same day by registered mail a copy of the statement to the Secretary and a copy of the statement to the company whose pipeline or power line route is affected by the hearing.

54. (1) Where a person sends a copy of a statement of costs to a company in accordance with section 53 and the company does not pay in full the costs itemized in the statement within 60 days after the date of mailing of the statement, that person may request the Board to fix the amount to be paid by the company.

(2) A company that receives a copy of a statement of costs referred to in section 53 may request the Board to fix the amount to be paid by the company.

(3) A request referred to in this section shall be in writing and the person or company making the request shall send on the same day by registered mail a copy of the request to the Board and a copy of the request to the other party.

(4) The Board may appoint a member of its staff to mediate between the parties involved in a request to the Board under this section with a view to obtaining an agreement as to the amount of costs to be paid by the company but if no agreement is reached within 20 days after the appointment of the member as mediator, the Board shall on notice to the parties commence proceedings to fix the amount to be paid.

PART VII

RIGHT OF ENTRY TO LANDS

Application

55. Sections 8 and 26 to 40 do not apply to proceedings under this Part.

56. A company that wishes to apply to the Board for an order under section 104 of the Act shall

(a) forthwith after it serves the owner of the lands with a notice referred to in subsection 104(2) of the Act, file a copy of the notice with the Board; and

(b) forthwith after it serves the owner of the lands with the schedule referred to in paragraph 57(b), file a copy of the schedule with the Board.

57. An application under section 104 of the Act shall include

(a) evidence that the notice referred to in subsection 104(2) of the Act has been served on the owner of the lands by personal service in any manner permitted by Part III of the *Federal Court Rules* or in any manner ordered by the Board under the *National Energy Board Substituted Service Regulations*, within the time referred to in that subsection;

(b) a schedule proposed to be made part of the order sought from the Board that contains, in a form suitable for depositing, registering, recording or filing against lands, as the case requires, a description of

(i) the lands in respect of which the order is sought,

(ii) the rights, titles or interests applied for in respect of the lands, and

(iii) any rights, obligations, restrictions or other terms and conditions proposed to attach to the rights, titles or interests applied for in respect of the lands; to any remaining interest or interests; or to any adjacent lands of the owner;

(c) evidence that the schedule referred to in paragraph (b) has been served on the owner of the lands; and

(d) a current abstract of title to the lands or a certified copy of the certificate of title to the lands.

Written Objection

58. (1) An owner of lands in respect of which an application under section 104 of the Act has been made by a company, who sends to the Board an objection in writing referred to in paragraph 104(2)(c) of the Act, shall send concurrently, by registered mail, a copy of the objection to the company at the address shown in the notice served on the owner by the company.

(2) A company that receives a written objection referred to in subsection (1) shall file with the Board a written response to the objection or inform the Board in writing that it does not wish to respond to the objection.

SCHEDULE I

(Sections 20, 29, 30 and 39)

FORMS

FORM I

Subpoena

(Coat of Arms of Canada)

NATIONAL ENERGY BOARD

CANADA

IN THE MATTER OF

TO

You are hereby required to attend before the Board at the _____ of _____ in the Province of _____ on _____ day, the _____ day of _____ 19____ at the hour of _____ o'clock in the _____ noon, and so from day to day until the above matter is heard, to give evidence on behalf of _____ and also to bring with you and produce at the time and place aforesaid the following documents, VIZ: (specify documents)

IN WITNESS THEREOF this Subpoena is signed for the National Energy Board by its Secretary at Calgary, Alberta this _____ day of _____ 19____.

(SEAL)

Secretary

(The following shall be endorsed on the subpoena:

Note: Subsection 20(3) of the *NEB Rules of Practice and Procedure* provides as follows:

"No person served with a subpoena by a party to a proceeding is required to appear before the Board pursuant to such subpoena unless the person has been paid or tendered conduct money in an amount sufficient to cover the person's reasonable fees and travelling expenses.")

FORM 2

(Public Hearing Procedures under Part III of these Rules)

(Directions on Procedure)

File Number:

Date:

HEARING ORDER (insert number)

Directions on Procedure

(insert name of company, title of proceeding)

(Note: Two alternative texts are provided for this form. If the public hearing is being held to dispose of an application to the Board, use text A. If the public hearing is being held to dispose of matters other than an application to the Board, use text B.)

(TEXT A)

By application dated (date of application), (name of applicant) ("the Applicant") has applied to the National Energy Board ("the Board") pursuant to (indicate section, subsection or Part) of the *National Energy Board Act* for (describe type of application). Having considered the application, the Board has decided to hold a public hearing and directs as follows:

PUBLIC VIEWING

1. The Applicant shall deposit and keep on file, for public inspection during normal business hours, a copy of the application (insert "at its offices," if applicable) at (insert location). A copy of the application is also available for viewing in the Board's Library, First floor, 311 - 6th Avenue S.W., Calgary, Alberta, T2P 3H2, telephone: (403) 299-3561.

INTERVENTIONS

2. Interventions are required to be filed with the Secretary and served on the Applicant by (date). Interventions should include all the information set out in subsection 32(1) of the *NEB Rules of Practice and Procedure* ("the Rules").

(Note: When directions are concerning applications pursuant to Part VI of the Act the following shall be added to paragraph 2:

"Intervenors shall indicate whether they wish to receive copies of certain of the applications in these proceedings."

and the following paragraphs shall be inserted here and subsequent paragraphs renumbered accordingly.

- "3. Each applicant is hereby granted intervenor status in respect of the applications of each other applicant in these proceedings and need not, therefore, comply with paragraph 2 unless they wish to receive copies of other applications in these proceedings.
4. Intervenors are reminded that by its *Reasons for Decision in the Matter of a Review of Natural Gas Surplus Determination Procedures* dated July 1987, the Board made a complaints procedure available to Canadian gas-users. This allows a domestic gas-user to object to an export on the ground that it cannot obtain additional supplies of gas under contract on terms and conditions, including price, similar to those contained in the export proposal. The complaints procedure was further described in the Board's *Reasons for Decision in the Matter of Proposed Changes to the Application of the Market-Based Procedure* dated May 1992.")

3. The Secretary will issue a List of Parties shortly after (date).

(Note: Where directions are given permitting an applicant to submit additional written evidence, the following paragraph shall be inserted here and subsequent paragraphs renumbered accordingly.

WRITTEN EVIDENCE OF THE APPLICANT

- "4. Any additional written evidence that the Applicant wishes to present shall be filed with the Secretary and served on all intervenors by (date)."

INFORMATION REQUESTS TO THE APPLICANT

4. Information requests directed to the Applicant shall be filed with the Secretary and served on all parties by (date).
5. Responses to information requests filed pursuant to paragraph 4 and received within the specified time limit shall be filed with the Secretary and served on all parties by (date).

WRITTEN EVIDENCE OF THE INTERVENORS

6. Intervenor written evidence is required to be filed with the Secretary and served on all parties by (date).

LETTERS OF COMMENT

7. Letters of comment are required to be filed with the Secretary and served on the Applicant by (date).

(Note: When directions are concerning applications pursuant to Part IV of the Act paragraph 8 shall not be included.)

COMMENTS FOR THE PURPOSE OF THE BOARD'S ASSESSMENT

8. As required by the *Environmental Assessment and Review Process Guidelines Order*, the Board will be conducting an initial assessment of the potential environmental effects of the proposals and the social effects directly related to those environmental effects. Written comments pertaining to the Board's initial assessment shall be filed with the Secretary and served on all parties to the proceeding by (date).

INFORMATION REQUESTS TO INTERVENORS

9. Information requests with respect to the evidence of intervenors filed pursuant to paragraph 6 are required to be filed with the Secretary and served on all parties by (date).
10. Responses to information requests filed pursuant to paragraph 9 and received within the specified time limit shall be filed with the Secretary and served on all parties by (date).

HEARING

11. The public hearing will commence at (location), on (day, date, time).

(Note: Where a pre-hearing conference is to be held, the following paragraph shall be inserted here and subsequent paragraphs renumbered accordingly.

"PRE-HEARING CONFERENCE

12. A pre-hearing conference is scheduled to take place at (location), on (day, date, time) for the purpose of (insert purpose)."

SERVICE TO PARTIES

12. The Applicant shall serve a copy of these Directions on Procedure and Appendices on the persons listed in Appendix II by (date) in either official language as appropriate or as requested.
13. Upon receipt of the List of Parties, the Applicant shall serve a copy of its application, any additional written evidence and all documents related thereto on each intervenor.

(Note: Where directions are concerning applications pursuant to Part VI of the Act, the following shall be added to paragraph 13:

"that has indicated that it wishes to receive a copy of the application.")

14. Upon receipt of the List of Parties, each intervenor shall serve a copy of its intervention on the Applicant and on all other intervenors as is required by section 32 of the Rules.

NOTICE OF HEARING

15. The Applicant shall publish the Notice of Public Hearing, attached as Appendix I in the publications listed in Appendix III by (date).

(Note: Where directions are concerning applications pursuant to Part III of the Act the following shall be added to paragraph 15:

- "(a) The Applicant shall provide, for each local publication listed in Part (insert part listing local publications) of Appendix III, a map showing the area served by that publication of a scale sufficient to represent with reasonable accuracy the location of the proposed general route of the pipeline in relation to prominent topographical features, population centres, highways, utilities and other such prominent local landmarks.
- (b) Each notice shall identify a location at a local municipal office within or near the area covered by the plan referred to in paragraph 16(a), where pipeline route sheets for that area are available for inspection."

Where directions are given with respect to the issues to be heard or the phases in which the hearing is to be conducted, they shall be inserted here with appropriate headings and subsequent paragraphs renumbered accordingly.)

TIMETABLE OF EVENTS

16. A timetable for filing and service is listed in Appendix IV.

FILING AND SERVICE REQUIREMENTS

17. Where a party is directed by these Directions on Procedure or by the Rules to file or serve documents on other parties, the following numbers of copies shall be filed or served:
- (a) for documents to be filed with the Board, (insert number) copies,
 - (b) for documents to be served on the Applicant, (insert number) copies,
 - (c) for documents to be served on intervenors, (insert number) copies.
18. Parties filing or serving documents at the hearing shall file (insert number) copies with the Hearing Officer and (insert number) copies with Board Counsel and shall leave a sufficient number of copies for parties at a designated location in the hearing room.
19. Persons filing letters of comment shall serve one copy on the Applicant and file one copy with the Board, which in turn will provide copies for all other parties.
20. Parties filing or serving documents less than five days prior to the commencement of the hearing shall bring to the hearing a sufficient number of copies of the documents for use by the Board and other parties present at the hearing.
21. Parties are reminded that, pursuant to subsections 8(4) and 9(1) of the Rules, a document is not filed or served until it is received by its intended recipient.

(Note: Where directions are concerning applications pursuant to Part VI of the Act the following paragraph shall be inserted here and subsequent paragraphs would be renumbered accordingly.

"22. Applicants need not serve their technical gas supply information on parties, on the condition that a copy of the detailed gas reserves information be served on any party who specifically requests service, that a copy be made available for viewing at the places indicated in paragraph 1 and that a copy be made available in the hearing room. Each of the applicants is required to file (insert number) copies of the technical gas supply information, and revisions thereto, with the Board.")

SIMULTANEOUS INTERPRETATION

22. Intervenors shall indicate in their intervention the official language they intend to use at the hearing. If it appears that both official languages will be used at the hearing, simultaneous interpretation will be provided.

(or)

The proceeding will be conducted in either of the two official languages and simultaneous interpretation will be provided.

GENERAL

23. Parties shall quote Hearing Order (insert number) and File No. (insert number) when corresponding with the Board in this matter.
24. These Directions on Procedure supplement the *NEB Rules of Practice and Procedure*.
25. For information on this hearing or the procedures governing the hearing, contact (name), Secretariat Officer, at (telephone number).

NATIONAL ENERGY BOARD

(name)
Secretary

(TEXT B)

(To be used if the public hearing is being held to dispose of matters other than an application to the Board.)

(Describe the events, information or statutory mandate that has led the Board to initiate a public hearing). The National Energy Board ("the Board") decided on (date), pursuant to (indicate section, subsection or Part) of the *National Energy Board Act* to hold a public hearing to (describe the purpose of the hearing) and directs as follows:

PUBLIC VIEWING

1. A copy of all documentation in this matter is available for viewing in the Board's Library, First floor, 311 - 6th Avenue S.W., Calgary, Alberta.

(or)

(Name of person directed to do so) shall deposit and keep on file, for public inspection during normal business hours, a copy of (describe documentation) (insert "in its offices," if applicable) at (insert location). A copy of such documentation is also available for viewing in the Board's Library, First Floor, 311 - 6th Avenue S.W., Calgary, Alberta.

INTERVENTIONS

2. Interventions are required to be filed with the Secretary by (date). Interventions should include all the information set out in subsection 32(1) of the *NEB Rules of Practice and Procedure* ("the Rules").
3. The Secretary will issue a List of Parties shortly after (date).
4. Upon receipt of the List of Parties, each intervenor shall serve a copy of its intervention on all parties as is required by section 32 of the Rules.

WRITTEN EVIDENCE

5. Intervenor written evidence is required to be filed with the Secretary and served on all parties by (date).

INFORMATION REQUESTS

6. Information requests directed to an intervenor who filed evidence pursuant to paragraph 5 are required to be filed with the Secretary and served on all parties by (date).
7. Responses to information requests filed pursuant to paragraph 6 and received within the specified time limit shall be filed with the Secretary and served on all parties by (date).

LETTERS OF COMMENT

8. Letters of comment are required to be filed with the Secretary by (date).

HEARING

9. The public hearing will commence at (location) on (day, date, time).

(Note: Where a pre-hearing conference is to be held, the following paragraph shall be inserted here and subsequent paragraphs would be renumbered accordingly.)

"PRE-HEARING CONFERENCE

10. A pre-hearing conference is scheduled to take place at (location), on (day, date, time) for the purpose of (indicate purpose)."

NOTICE OF HEARING

10. The Board will arrange for publication of the Notice of Public Hearing attached as Appendix I in the publications listed in Appendix III.

(Note: Where the Board will also arrange for the service of the Directions on Procedure and the Notice of Public Hearing on certain persons, the following paragraph shall be inserted here and subsequent paragraphs renumbered accordingly.)

"SERVICE TO PERSONS

11. The Board will serve a copy of these Directions on Procedure and Appendices by (date) on the persons listed in Appendix II in either official language as appropriate or as requested."

TIMETABLE OF EVENTS

11. A timetable for filing and service is listed in Appendix IV.

(Note: Where directions are given with respect to the issues to be heard or the phases in which the hearing is to be conducted, they shall be inserted here with appropriate headings and subsequent paragraphs renumbered accordingly.)

FILING AND SERVICE REQUIREMENTS

12. Where parties are directed by these Directions on Procedure or by the Rules to file or serve documents on other parties, the following number of copies shall be filed or served:

- (a) for documents to be filed with the Board, (insert number) copies,
 - (b) for documents to be served on other parties, (insert number) copies.
- 13. Parties filing or serving documents at the hearing shall file (insert number) copies with the Hearing Officer and (insert number) copies with Board Counsel and shall leave a sufficient number of copies for parties at a designated location in the hearing room.
 - 14. Persons filing letters of comment shall file one copy with the Board, which in turn will provide copies for all parties.
 - 15. Parties filing or serving documents less than five days prior to the commencement of the hearing shall bring to the hearing a sufficient number of copies of the documents for use by the Board and other parties present at the hearing.
 - 16. Parties are reminded that, pursuant to subsections 8(4) and 9(1) of the Rules, a document is not served or filed until it is received by its intended recipient.

SIMULTANEOUS INTERPRETATION

- 17. All parties to the proceeding shall indicate in their interventions the official language they intend to use at the hearing. If it appears that both languages will be used at the hearing, simultaneous interpretation will be provided.

(or)

The proceeding will be conducted in either official language and simultaneous, interpretation will be provided.

GENERAL

- 18. Parties shall quote Hearing Order (insert number) and File No. (insert number) when corresponding with the Board in this matter.
- 19. These Directions supplement the *NEB Rules of Practice and Procedure*.

20. For information on this hearing or the procedures governing the hearing, contact (name), Secretariat Officer, at (telephone number).

NATIONAL ENERGY BOARD

(name)
Secretary

FORM 3

(Public Hearing Procedures under Part III of these Rules)

(Notice of Public Hearing)

Appendix I
Hearing Order
(insert number)

NATIONAL ENERGY BOARD

HEARING ORDER (insert number)

NOTICE OF PUBLIC HEARING

(insert name of company, title of proceeding)

(Note: Two alternative texts are provided for this Form. If the public hearing is held to dispose of an application to the Board, use text A. If the public hearing is held to dispose of matters other than an application to the Board, use text B.)

(TEXT A)

The National Energy Board ("the Board") will conduct a hearing into an application dated (date of application) by (name of applicant) ("the Applicant") pursuant to (indicate section, subsection or Part) of the *National Energy Board Act* for (describe application). (Provide a summary of the application).

The hearing will commence at (location), on (day, date, time).

The hearing will be public and will be held to obtain the evidence and views of interested persons on the application.

Any person wishing to intervene in the hearing must file a written intervention with the Secretary of the Board and serve a copy on the Applicant at the following address: (name and address of Applicant). The Applicant will provide a copy of the application to each intervenor. (Note: For applications pursuant to Part VI of the Act add the following "who requests one.")

The deadline for receipt of written interventions is (date). The Secretary will issue a List of Parties shortly thereafter.

Any person wishing only to comment on the application should file a letter of comment with the Secretary of the Board and send a copy to the Applicant by (date).

(Note: When the application is pursuant to Part IV of the Act the following paragraph shall not be included.)

The Board will also conduct an initial assessment, pursuant to the *Environmental Assessment and Review Process Guidelines Order*, of the potential environmental effects of the proposal and the social effects directly related to those environmental effects. Written comments pertaining to the Board's assessment shall be filed with the Secretary and served on all parties to the proceeding by (date).

Information on the procedures for this hearing (Hearing Order insert number) or the *NEB Rules of Practice and Procedure* governing all hearings (both documents are available in English and French) may be obtained by writing to the Secretary or telephoning the Board's Regulatory Support Office at (telephone number).

(name)
Secretary
National Energy Board
311 - 6th Avenue S.W.
Calgary, Alberta
T2P 3H2
(facsimile number)

(TEXT B)

The National Energy Board ("the Board") has decided, pursuant to (indicate section, subsection or Part) of the *National Energy Board Act* to hold a public hearing to (describe the purpose of the hearing).

The hearing will commence at (location), on (day, date, time).

The hearing will be public and will be held to obtain the evidence and views of interested persons on the application.

Any person wishing to intervene in the hearing must file a written intervention with the Secretary of the Board (insert "and send a copy to (name of person)," if applicable).

The deadline for receipt of interventions is (date). The Secretary will issue a List of Parties shortly thereafter.

Any person wishing only to comment on the subject matter of the proceeding should file a letter of comment with the Secretary of the Board by (date).

Information on the procedures for this hearing (Hearing Order insert number) or the *NEB Rules of Practice and Procedure* governing all hearings (both documents available in English and in French) may be obtained by writing to the Secretary or telephoning the Board's Regulatory Support Office at (telephone number).

(name)
Secretary
National Energy Board
311 - 6th Avenue S.W.
Calgary, Alberta
T2P 3H2
(facsimile number)

FORM 4

(Hearing Procedures for Applications not Requiring
Public Hearing Pursuant to Section 40 of the Rules)

(Directions on Procedure)

File Number:

Date:

HEARING ORDER (insert number)

Directions on Procedure

(insert name of company, title of proceeding)

By application dated (date of application), (name of applicant) ("the Applicant") has applied to the National Energy Board ("the Board") for (describe type of application). Having considered the application, the Board directs as follows:

PUBLIC VIEWING

1. The Applicant shall deposit and keep on file, for public inspection during normal business hours, a copy of the application (insert "in its offices," if applicable) at (insert location). A copy of the application is also available for viewing in the Board's Library, First floor, 311 - 6th Avenue S.W., Calgary, Alberta.

SUBMISSIONS OF INTERESTED PERSONS

2. Submissions of interested persons are required to be filed with the Secretary and served on the Applicant by (date).
3. Interested persons are directed to comment on, *inter alia*, the granting or dismissal of the application (insert "and whether or not a public hearing should be held to deal with the application," if applicable).

REPLY

4. Any reply by the Applicant to a submission of an interested person is required to be filed with the Secretary and served on all persons who filed submissions by (date).

SERVICE TO INTERESTED PERSONS

5. The Applicant shall serve a copy of the application and these Directions on Procedure with Appendices on the persons listed in Appendix II in either official language as appropriate or as requested, by (date).

(Note: Where the Board issues a public notice pursuant to subsection 40(2) of the Rules, the following paragraphs shall be inserted here and subsequent paragraphs renumbered accordingly.

"PUBLIC NOTICE

6. The Applicant shall publish the Public Notice, attached as Appendix I, in the publications listed in Appendix III.)

GENERAL

6. Parties shall quote Hearing Order (insert number) and File No. (insert number) when corresponding with the Board in this matter.
7. These Directions on Procedure supplement the *NEB Rules of Practice and Procedure*.
8. For information on this hearing or the procedures governing the hearing, contact the Board's Regulatory Support Office at (telephone number).

(name)
Secretary

FORM 5

(Hearing Procedures Pursuant to Section 40 of the Rules)

Appendix I
to Hearing Order
(insert number)

NATIONAL ENERGY BOARD

HEARING ORDER (insert number)

PUBLIC NOTICE

(insert name of company, title of proceeding)

Calgary, (date)

(name of applicant, title of proceeding, file number)

The National Energy Board ("the Board") has received an application dated (date of application) from (name of applicant) ("the Applicant") for (describe type of application). (Provide a summary of the application or the proposed issue.)

Any interested person who wishes to comment on this application may do so by filing a submission with the Secretary of the Board and serving a copy thereof on the Applicant on or before (date). Any reply from the Applicant to a submission shall be filed with the Secretary and served on the interested person on or before (date).

Additional information on the application, the locations at which the application may be inspected, or the procedure to be followed may be obtained by writing to the Secretary or telephoning the Board's Regulatory Support Office at (telephone number).

(Note: Two alternate texts are provided for the concluding section of the notice.)

(TEXT A)

The Board will dispose of the application on the basis of the written material before it.

(TEXT B)

Depending on the nature of the interventions and replies received within the time periods set out above, the Board will determine whether or not a public hearing will be held to deal with the application. All interested persons who have expressed an interest in the application will be notified by the Board should a public hearing be convened. In the event that a public hearing is not held, the Board will dispose of the application on the basis of the written material before it.

(name)
Secretary
National Energy Board
311 - 6th Avenue S.W.
Calgary, Alberta
T2P 3H2
(facsimile number)

AI
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N53

National Energy Board



Office national de l'énergie

File No: 7500-A000-4

Date: 3 June 1993

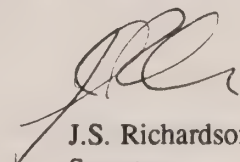
To: Export Impact Assessment (EIA) Interested Parties

Re: Export Impact Assessment Workshop: Summary of Discussion

On 3 September 1992, the National Energy Board released a draft EIA. The Board invited comment on the draft with the intention of holding a technical workshop to discuss the approach taken, the main assumptions and issues that arise in the EIA analysis.

The Board received nine (9) written submissions representing twelve (12) interested parties. Based on the submissions, issues were developed for the workshop discussion on the following subject areas: (1) Scenarios; (2) Natural Gas Supply; (3) Demand/Transportation; and (4) the EIA Concept/Process. The workshop was held in Calgary on 1 April 1993 and was attended by approximately 40 individuals from industry and governments. A summary of the discussion is attached.

No decisions will be taken by the Board directly as the result of the workshop. However, the discussion indicated that a number of the aspects of the analysis and process should be re-examined. Before making substantial changes in the EIA, the Board will consult with interested parties.


J.S. Richardson
Secretary



National Energy Board



Office national de l'énergie

File No.: 132-1
7 July 1993

**TO: ALL COMPANIES UNDER THE BOARD'S JURISDICTION AND OTHER
INTERESTED PARTIES**

**Re: Process Reforms Concerning Electricity Export and International Power Line
Applications**

Introduction

Since the National Energy Board Act ("the Act") was amended in 1990, the Board has processed a number of electricity export and international power line applications under its 22 June 1990 Memorandum of Guidance ("1990 MOG"). Based on the Board's experience in processing these applications, the Board has decided to change its processing procedures, as outlined in the 1990 MOG, to better reflect the intent of the amended Act and make the procedures more responsive to changing market conditions. Accordingly, the Board wishes to inform interested parties of these changes to its procedures which are effective immediately.

The Revised Process Procedures

The attached revised Memorandum of Guidance ("1993 MOG") supersedes and replaces the Board's 1990 MOG concerning full implementation of the September 1988 Canadian Electricity Policy. The following summary of the revisions is provided for information only. Readers should have regard to the text of the 1993 MOG before preparing an application.

(1) General Public Notice Requirements

To meet the notice publication requirements of the Act, all applicants shall publish a standard notice incorporating both a Notice of Application and a Directions on Procedure ("NOA/DOP") at the time an application is filed with the Board. The Board will no longer issue a separate DOP and NOA for each application after it has been filed with the Board. Accordingly, Appendices III and V of the 1990 MOG, concerning the notice to be published in the Canada Gazette and the DOP and associated NOA, have been superseded by Appendix I of the attached 1993 MOG.

.../2

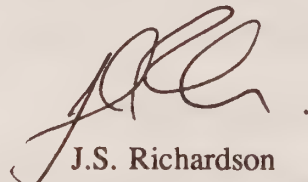
(2) **Processing Procedures**

In place of the processing procedures described on pages 4 and 5 of the 1990 MOG, applicants are required to follow the processing procedures set out in the attached 1993 MOG.

The new procedure to obtain comments of interested parties and applicants will be as follows:

1. After an applicant has published the NOA/DOP, interested parties will be able to receive a copy of the application and make submissions.
2. In the event that submissions are received, the applicant will be given an opportunity to answer the submissions.
3. In the event that the applicant answers the submissions, the interested parties will have a further opportunity to reply to the applicant's answer to their submissions.

Any inquiries with respect to the implementation measures described in this Memorandum of Guidance should be directed to Mr. Ivan Harvie, Chief, Regulatory Division, Electric Power Branch, telephone: (403) 299-3167, facsimile: (403) 292-5503.



J.S. Richardson
Secretary

Attachment



File No.: 132-1

22 June 1990

Revised 7 July 1993

**MEMORANDUM OF GUIDANCE¹ TO INTERESTED PARTIES CONCERNING
FULL IMPLEMENTATION OF THE SEPTEMBER 1988
CANADIAN ELECTRICITY POLICY**

INTRODUCTION

On 25 March 1990, Bill C-23, an Act to amend the National Energy Board Act and to repeal certain enactments in consequence thereof became law. It came into force on 1 June 1990 following proclamation by the Governor in Council. Hereinafter, the National Energy Board Act, as amended by Bill C-23, is referred to as "the Amended Act".

THE AMENDED ACT

Under the Amended Act, electricity exports and international power lines will normally be authorized by issuance of a permit, without a public hearing, unless the Governor in Council, upon the recommendation of the Board, designates a proposed export or an international power line for licencing or certificating procedures. In determining whether to make a recommendation to the Governor in Council, the Board shall seek to avoid the duplication of measures taken by the applicant and the government of the province from which electricity is to be exported or through which a line is to pass, and shall have regard to all considerations that appear to it to be relevant including any comments submitted by interested parties. In the case of a proposed export, those considerations shall include:

- (a) the effect of the exportation of the electricity on provinces other than that from which the electricity is to be exported;
- (b) the impact of the exportation on the environment;
- (c) whether the applicant has
 - (i) informed those who have declared an interest in buying electricity for consumption in Canada of the quantities and classes of service available for sale, and
 - (ii) given an opportunity to purchase electricity on terms and conditions as

¹ This Memorandum of Guidance supersedes that issued on 22 June 1990.

favourable as the terms and conditions specified in the application to those who, within a reasonable time of being so informed, demonstrate an intention to buy electricity for consumption in Canada²; and

- (d) such considerations as may be specified in the draft National Energy Board Electricity Regulations ("the Electricity Regulations")³.

Similarly, in the case of a proposed international power line, those considerations shall include:

- (a) the effect of the power line on provinces other than those through which the line is to pass;
- (b) the impact of the construction or operation of the power line on the environment; and
- (c) such considerations as may be specified in the Electricity Regulations.

Before issuing a permit, the Board will examine the application and its supporting information, the submissions of interested parties, and any other information that the Board might require to be furnished by the applicant⁴. Permits issued by the Board are not subject to Governor in Council approval. However, the Governor in Council may, up to 45 days following the issuance of a permit by the Board, issue an order revoking the permit and requiring that a proposed export or international power line be designated for a licencing or a certificating process.

The Board may, based on its examination of the adequacy of the application and any information submitted by interested parties, recommend to the Governor in Council that a proposed export of electricity or an international power line be designated for a licencing or certificating process requiring a public hearing.

Following the issuance of such a recommendation, which would be made public, if the Governor in Council does not make an order designating the proposed export or international power line for a licencing or certificating process, the Board shall issue a permit. Any permit issued by the Board is subject to such terms and conditions respecting any of the matters prescribed in the Electricity Regulations as may be imposed by the Board.

In the event that the Governor in Council does make an order designating a proposed export or international power line for a licencing or certificating process, the Board shall hold a public hearing and have regard to all considerations that appear to it to be relevant. Any licence or certificate that is issued by the Board is subject to the approval of the Governor in Council, and to such terms and

² This process is referred to as providing fair market access.

³ Attached as Appendix II to this MOG.

⁴ The Board may, within a reasonable time after publication of the notice of the application, require the applicant to furnish such information, in addition to that required to accompany the application, as the Board considers necessary which may include, among other things, information pertaining to matters raised by interested parties in their submissions.

conditions as the Board may impose.

The maximum period of any licence or permit to export electricity is 30 years from a date to be fixed in the respective authorization.

Finally, under the Amended Act, detailed routing and land acquisition in respect of international power lines will be carried out under provincial laws unless an applicant elects pursuant to section 58.23 of the Amended Act to have federal laws apply. In this case, the detailed routing and land acquisition procedures under the National Energy Board Act will apply.

PROCEDURES FOR PROCESSING EXPORT AND INTERNATIONAL POWER LINE APPLICATIONS UNDER THE AMENDED ACT

Early Public Notification Requirements

Parties applying for international power line authorizations are reminded that they must comply with the revised Memorandum of Guidance Concerning Early Public Notification of Proposed Applications, dated 4 March 1993, attached as Appendix III.

General Public Notice Requirements

In all cases, applicants for authorizations to export electricity or to construct and operate an international power line shall, at the time of filing an application with the Board, publish a Notice of Application and Directions on Procedure ("NOA/DOP")⁵ in the Canada Gazette in accordance with section 58.12 or 119.04 of the National Energy Board Act.

In addition, for electricity export applications other than border accommodation transfers⁶, applicants are directed to serve a copy of their application on each directly interconnected Canadian utility and to publish the NOA/DOP as follows:

A copy of the NOA/DOP must be published on the same date (insofar as it is possible to do so) in the Canada Gazette, Part 1 and:

- (a) in English in the largest paid circulation English language newspaper and in French in the largest paid circulation French language newspaper, published in the most populous community in the Applicant's service area; and
- (b) if the community referred to in (a) is not served by an English and a French language newspaper, the NOA/DOP must be published in both official languages in the newspaper

⁵ Examples of NOA/DOPs are attached for export applications (Appendix I(a)), border accommodations (Appendix I(b)) and international power lines (Appendices I(c) and I(d)).

⁶ A border accommodation transfer is a power or energy transfer for purposes of providing electricity service to a person in a foreign country who lacks ready access to service from an electric utility of that country, or to an international work (i.e. bridge, tunnel, etc.), or to a person in a foreign country who experiences an interruption in service from electric utilities in that foreign country.

which has the largest paid circulation in that community.

For applications for a permit to construct and operate an international power line exceeding an operating voltage of 50 kilovolts, applicants are directed to serve a copy of their application on each directly interconnected Canadian utility and to publish the NOA/DOP on the same date (insofar as it is possible to do so) in the Canada Gazette, Part I, in accordance with paragraphs (a) or (b) above, and:

- (c) in English in the largest paid circulation English language newspaper and in French in the largest paid circulation French language newspaper, published in each county and district through which the proposed line will pass; or
- (d) if a county or district through which the proposed line will pass is not served by an English and a French language newspaper, the NOA/DOP must be published in both official languages in the newspaper having the largest paid circulation in that county or district.

For lines of an operating voltage not exceeding 50 kilovolts, applicants are required to publish the NOA/DOP in the Canada Gazette as noted above, and in accordance with (c) or (d) above.

- * **Note:** It is the responsibility of the applicants to ensure that correct notices in English and French are published to reach both language groups.

If applicants wish a variance from the requirements to publish notices in the above noted newspapers because of the limited and/or local nature of their application, they may request relief from the Board prior to filing their application with the Board. Such a request shall include a proposed alternative, for prior Board approval, for the publication of the NOA/DOP in local newspapers or bulletins, as appropriate, in order to inform potentially affected interested parties.

Applicants shall file with the Board, as soon as possible after the date of publication in the newspapers, copies of each newspaper tear sheet showing the NOA/DOP as published.

Information to be Furnished by Applicants

- (a) Applicants for authorization to export electricity are relieved of the need to comply with the provisions of subsection 6(2) of the Part VI Regulations.
- (b) In place of the information referred to in item (a), applicants for authorizations to export electricity are required to furnish such information as set out in section 8 or section 9 of the Electricity Regulations. The information set out in section 8 is required to be furnished by applicants for authorizations for border accommodation transfers and the information set out in section 9 is required to be furnished by all other applicants. In addition, in accordance with section 119.05 of the Amended Act, the Board may require the applicant to furnish additional information to help it determine whether it wishes to recommend that a proposed export be designated for a licencing process.
- (c) Pursuant to subsection 5(1)(b) of the National Energy Board Rules of Practice and Procedure, applicants for authorization of international power lines are relieved of the

need to comply with the provisions of Part III of the Schedule of the Rules of Practice and Procedure.

- (d) In place of the information for which an exemption has been granted in item (c), applicants are required to furnish such information as set out in section 3 or section 4 of the Electricity Regulations. The information set out in section 3 is required to be furnished by applicants proposing to construct and operate international power lines not exceeding an operating voltage of 50 kilovolts and the information set out in section 4 is required to be furnished by all other applicants. In addition, in accordance with Section 58.13 of the Amended Act the Board may require the applicant to furnish additional information to help it determine whether to recommend that a proposed international power line be designated for a certificating process.

Processing Procedures

Persons wishing to make a submission advocating the imposition of permit terms and conditions, or the recommendation by the Board to the Governor in Council requesting designation for licencing/certification procedures, must provide information to support their submission.

Submitters are advised that they should raise all their concerns in their submissions. Submitters will have the final right of reply in permit applications.

Upon submission of an application to the Board, the following procedure will apply:

Following publication by the applicant of the NOA/DOP and verification by the Board of all required information, and after a 30-day period from the date of publication of the NOA/DOP to allow for comments by interested parties, the Board will either

- (a) if no submissions are received and if the application conforms with the requirements of the Amended Act, issue a permit⁷, which shall be sent to the applicant, or
- (b) if submissions are received, allow a further 15-day period for the applicant to answer the submissions and a further 10 days for the submitter to reply to the applicant's response to his submission.

Following the time to allow for the filing of responses as outlined in (b) above, the Board will, based on its examination of the application and the submissions and responses, issue a permit⁷ or make a recommendation to the Governor in Council for designation of the application. If a permit is issued, a copy of the permit will be sent to the applicant and to all interested parties.

⁷ Subject to such terms and conditions respecting matters prescribed by the Electricity Regulations as the Board considers necessary or desirable.

Terms and Conditions of Permits

The matters in respect of which terms and conditions of export permits may be imposed are set out in section 10, and those relating to international power line permits are set out in section 5 of the Electricity Regulations.

Detailed Routing of International Power Lines

Applicants who wish to have the detailed routing and land acquisition procedures of the Act apply to an existing or proposed international power line are required to file an election in the form set out in the schedule to the Electricity Regulations.

Applicants choosing to file an election should have regard to the Guidelines on the Environmental Information Required with Applications for Authorizations for International Power Lines contained in Appendix IV. These guidelines apply only where applicants elect to locate and construct the international power line under federal jurisdiction.

Any inquiries with respect to the implementation measures described in this Memorandum of Guidance should be directed to Mr. Ivan Harvie, Chief, Regulatory Division, Electric Power Branch, telephone (403) 299-3167, facsimile: (403) 292-5503.



J.S. Richardson
Secretary

Attach.

**EXAMPLE OF NOTICE TO BE PUBLISHED
FOR ELECTRICITY EXPORTS**

**Notice of Application and Directions on Procedure
Alpha Electric
Application to Export Electricity to the Omega Power Authority
of the United States**

By an application dated 1 July 1993, Alpha Electric ("the Applicant") has applied to the National Energy Board ("the Board") under Division II of Part VI of the *National Energy Board Act* ("the Act") for authorization to export 500 megawatts of firm power and 2 000 gigawatt-hours per year of firm energy for a period of 5 years commencing on 1 November 1993. This export would be in accordance with the terms of the firm power and energy contract between Alpha Electric and the Omega Power Authority executed on 1 June 1993.

The Board wishes to obtain the views of interested parties on this application before issuing a permit or recommending to the Governor in Council that a public hearing be held. The Directions on Procedure that follow explain in detail the procedure that will be used.

1. The Applicant shall deposit and keep on file, for public inspection during normal business hours, copies of the application at its offices located at (the Applicant's address) and provide a copy of the application to any person who requests a copy. A copy of the application is also available for viewing during normal business hours in the Board's library, Room 100, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2.
2. Submissions that any party wishes to present shall be filed with the Secretary of the Board, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2, facsimile: (403)292-5503, and the Applicant by (insert a date 30 days after the date of publication of this notice, i.e. 31 July 1993).
3. Pursuant to Section 119.06(2) of the Act, the Board shall have regard to all considerations that appear to it to be relevant. In particular, the Board is interested in the views of submitters with respect to:
 - a) the effect of the exportation of the electricity on provinces other than that from which the electricity is to be exported;
 - * b) the impact of the exportation on the environment; and

- (c) whether the applicant has
 - (i) informed those who have declared an interest in buying electricity for consumption in Canada of the quantities and classes of service available for sale, and
 - (ii) given an opportunity to purchase electricity on terms and conditions as favourable as the terms and conditions specified in the application to those who, within a reasonable time of being so informed, demonstrate an intention to buy electricity for consumption in Canada.

- * 4. The Board will also conduct an initial assessment, pursuant to the *Environmental Assessment and Review Process Guidelines Order*, of the potential environmental effects and the directly-related socio-economic effects of the proposal. Written comments to be considered during the Board's assessment shall be filed with the Secretary and should accompany any submissions parties file to the application by (insert same date as in number 2 above, i.e. 31 July 1993).
- 5. Any answer to submissions that the Applicant wishes to present in response to items 2 and 3 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the date in number 2 above, i.e. 15 August 1993).
- 6. Any reply that submitters wish to present in response to item 5 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the date in number 5 above, i.e. 25 August 1993).
- 7. For further information on the procedures governing the Board's review, contact J.S. Richardson, Secretary (403) 299-2711 facsimile: (403) 292-5503.

* Please note that in considering the impact of the export on the environment, the jurisdiction of the Board incorporates matters relating to the impact of sending electricity from Canada but does not include any environmental impact associated with the production of electricity for export.

**EXAMPLE OF NOTICE TO BE PUBLISHED FOR
BORDER ACCOMMODATIONS**

ALPHA ELECTRIC

Application for Authorization to Export

Electricity

Canada Gazette Part I

15 February 1993

Alpha Electric of 720 - 12th Avenue S.W., Calgary, Alberta, T2R 1J3, hereby gives notice that it has, under Division II of Part VI of the *National Energy Board Act*, filed an application dated 15 February 1993, with the National Energy Board for authorization to export energy to the Omega Power Authority of the United States. The export will be for the period 1 April 1993 to 31 October 2003, up to a maximum of 1 megawatt.

Written submissions in respect of the application shall be filed with the Secretary, National Energy Board, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2, facsimile: (403)292-5503, and with Alpha Electric by 17 March 1993 (i.e. 30 days after the date of publication of this notice).

Any answer to such submissions that the Applicant wishes to present shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the above date, i.e. 1 April 1993).

Any reply that parties wish to present in response to the Applicant shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the above date, i.e. 11 April 1993).

**EXAMPLE OF NOTICE TO BE PUBLISHED FOR
INTERNATIONAL POWER LINES
EXCEEDING 50 KILOVOLTS**

**Notice of Application and Directions on Procedure
Sigma Electric
Application to Construct and Operate an International Power Line
to the Beta Power Company of the United States**

By an application dated 1 July 1993, Sigma Electric ("the Applicant") has applied to the National Energy Board ("the Board") under Part III.1 of the *National Energy Board Act* ("the Act") for authorization to construct and operate a 345 000 volt three-phase international power line. The line would extend a distance of approximately 20 km southward from the (X) substation, located in (Location) in Canada, to the northern perimeter of the town of (Location), then southwest a further 50 km to a point on the international boundary located at (Location). The line would be constructed in accordance with the terms of the contract between Sigma Electric and the Beta Power Company executed on 1 June 1993.

The Board wishes to obtain the views of interested parties on this application before issuing a permit or recommending to the Governor in Council that a public hearing be held. The Directions on Procedure that follow explain in detail the procedure that will be used.

1. The Applicant shall deposit and keep on file, for public inspection during normal business hours, copies of the application at its offices located at (insert Applicant's address) and provide a copy of the application to any person who requests a copy. A copy of the application is also available for viewing during normal business hours in the Board's library, Room 100, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2.
2. Submissions that any party wishes to present shall be filed with the Secretary of the Board, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2, facsimile: (403)292-5503, and the Applicant by (insert a date 30 days after the date of publication of this notice, i.e. 31 July 1993).
3. Pursuant to Section 58.14(2) of the Act, the Board shall have regard to all considerations that appear to it to be relevant. In particular, the Board is interested in the views of submitters with respect to:

- a) the effect of the power line on provinces other than those through which the line is to pass; and
 - b) the impact of the construction or operation of the power line on the environment.
4. The Board will also conduct an initial assessment, pursuant to the *Environmental Assessment and Review Process Guidelines Order*, of the potential environmental effects and the directly-related socio-economic effects of the proposal. Written comments to be considered during the Board's assessment shall be filed with the Secretary and should accompany any submissions parties file to the application by (insert same date as in number 2 above, i.e. 31 July 1993).
5. Any answer to submissions that the Applicant wishes to present in response to items 2 and 3 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the date in number 2 above, i.e. 15 August 1993).
6. Any reply that submitters wish to present in response to item 5 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the date in number 5 above, i.e. 25 August 1993).
7. For further information on the procedures governing the Board's review, contact J.S. Richardson, Secretary (403) 299-2711, facsimile: (403) 292-5503.

**EXAMPLE OF NOTICE TO BE PUBLISHED
FOR INTERNATIONAL POWER LINES NOT EXCEEDING
AN OPERATING VOLTAGE OF 50 KILOVOLTS**

ALPHA ELECTRIC

**Application for Authorization to Construct and Operate
an International Power Line**

Canada Gazette Part I

15 February 1993

Alpha Electric of 720 - 12th Avenue S.W., Calgary, Alberta, T2R 1J3, hereby gives notice that it has, under Part III.1 of the *National Energy Board Act*, filed an application dated 15 February 1993, with the National Energy Board for authorization to construct and operate a 25 000 volt single phase international power line. The line would extend a distance of approximately 2 km southward from the (X) substation, located in (Location) in Canada, to the northern perimeter of the town of (Location), then southwest a further 1 km to a point on the international boundary located at (Location).

Written submissions in respect of the application shall be filed with the Secretary, National Energy Board, 311 - Sixth Avenue, Calgary, Alberta, T2P 3H2, facsimile: (403)292-5503, and with Alpha Electric by 17 March 1993 (i.e. 30 days after the date of publication of this notice).

Any answer to such submissions that the Applicant wishes to present shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the above date, i.e. 1 April 1993).

Any reply that parties wish to present in response to the Applicant shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the above date, i.e. 11 April 1993).

**REGULATIONS FOR CARRYING INTO EFFECT THE PROVISIONS OF THE
NATIONAL ENERGY BOARD ACT RESPECTING INTERNATIONAL POWER
LINES AND ELECTRICITY EXPORTS**

Short Title

1. These Regulations may be cited as the National Energy Board Electricity Regulations.

Interpretation

2. In these Regulations,

"Act" means the National Energy Board Act; (Loi)

"adjustment transfer" means a power or energy transfer for purposes such as to adjust energy account balances, to compensate for services rendered, to deliver output entitlements, or to deliver upstream or downstream benefits; (transfert en vue d'une correction)

"border accommodation transfer" means a power or energy transfer for purposes of providing electricity service to a customer in a foreign country who lacks ready access to services from an electric utility of that country; (transfert en vue de service frontalier)

"carrier transfer" means a transfer of power or energy wheeled from one electrical utility through circuits of another electrical utility that acts as a carrier for delivery to a third party or to the originating utility; (transfert relatif au transport)

"certificate" means a certificate under Part III.1 of the Act; (certificat)

"circulating power flow" means an unscheduled flow of electricity that occurs whenever loop circuits are formed by multiple transmission lines; (débit de puissance en circuit bouclé)

"energy" means energy in the form of electricity, expressed in units of watt hours or decimal multiples or sub-multiples of watt hours; (énergie)

"equichange transfer" means an interchange of equal quantities of power or energy within a stated period; (transfert d'équivalents)

"firm energy" means energy intended to be available at all specified times during a period covered by an agreement respecting the sale thereof; (énergie garantie);

"firm power" means power or power-production capacity intended to be available at all specified times during a period covered by an agreement respecting the sale thereof; (puissance garantie)

"interruptible energy" means energy made available under an agreement that permits curtailment or cessation of delivery at the option of the supplier; (énergie interruptible)

"interruptible power" means power made available under an agreement that permits curtailment or cessation of availability at the option of the supplier; (puissance interruptible)

"licence" means a licence under Division II of Part VI of the Act; (licence)

"notice" means a notice of the application published by the applicant in accordance with section 58.12 of Part III.1 of the Act or section 119.04 of Division II of Part VI of the Act; (avis)

"power" means the rate of transferring energy, expressed in units of watts or decimal multiples or sub-multiples of watts; (puissance)

"power transfer capability" means the amount of power that can be transferred from the circuits of one electric utility system to another while meeting reliability criteria for the transmission system; (capacité de transfert de puissance)

"sale transfer" means a transfer of power and energy under a contract of sale; (transfert en vue de la vente)

"storage transfer" means an energy transfer banked for the time being in the form of water in reservoir space of another electrical utility, in the expectation that equivalent energy will be returned at a later time. (transfert en vue de l'emmagasinement)

Information to be Furnished by Applicants for Authorization to Construct and Operate International Power Lines

3. Every applicant for an authorization to construct and operate an international power line, not exceeding an operating voltage of fifty kilovolts, shall furnish to the Board, unless the Board is of the opinion that such information is not necessary to dispose of the application, the following information:

(a) the name, address, telephone number and other telecommunication numbers of the applicant, or of the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;

(b) the name and address of the owner and of the operator of the international power line, if different from the applicant;

(c) a map, at a scale sufficient to locate and identify all relevant features, showing

(i) all terminal points, the route, the international boundary crossover point, and the distance in kilometers from the international boundary crossover point to each terminal point of the international power line,

(ii) cities, towns, and villages, rivers, major roads, railways and navigable waters through, under or across which the line is to pass, and

(iii) the power line outside Canada that at the crossover point is connected to the international power line and hereafter is referred to as "the power line outside Canada";

(d) a description from which the international boundary crossover point can be accurately determined on the ground;

(e) the name and address of the owner and the operator of the power line outside Canada;

(f) a brief description of the proposed line, setting forth the voltage level and the maximum power transfer capability;

(g) a copy of the agreement, if any, between the applicant and the owner or the operator of the power line outside Canada, dealing with the financing, construction, and operation of the international power line and the power line outside Canada;

(h) a description of the approvals that have been obtained or are expected to be obtained from all of the provinces through which the line will pass; and

(i) a description of the status of the approval process for the power line outside of Canada.

4. Every applicant for an authorization to construct and operate an international power line, exceeding an operating voltage of fifty kilovolts, shall furnish to the Board, unless the Board is of the opinion that such information is not necessary to dispose of the application, the following information:

(a) the name, address, telephone number and other telecommunication numbers of the applicant, or of the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;

(b) a brief description of the applicant, including a description of the applicant's power system and a copy of the applicant's annual report;

(c) the name and address of the owner and of the operator of the international power line, if different from the applicant;

(d) a map, at a scale sufficient to locate and identify all relevant features, showing

(i) all terminal points, the route, the international boundary crossover point, and the distance in kilometers from the international boundary crossover point to each terminal point of the international power line,

(ii) cities, towns, and villages, rivers, major roads, railways and navigable waters through, under or across which the line is to pass, and

(iii) the power line outside Canada that at the crossover point is connected to the international power line and hereafter is referred to as "the power line outside Canada";

(e) a description from which the international boundary crossover point can be accurately determined on the ground;

- (f) the name and address of the owner and the operator of the power line outside Canada;
- (g) a copy of the annual report of the owner and the operator of the power line outside Canada;
- (h) with respect to each circuit and terminal facility of the international power line, and of the power line outside Canada
 - (i) a brief engineering description,
 - (ii) a single-line diagram,
 - (iii) the design capabilities for sustained transmission of power under winter and summer conditions, and
 - (iv) the criteria that underlie the stated capabilities;
- (i) the power transfer capabilities between the applicant's power system and the power system outside Canada to which power is to be delivered, before and after the addition of the international power line, stating the criteria that underlie the stated capabilities;
- (j) a copy of:
 - (i) each interconnection or transaction agreement relating to the construction of the international power line, and
 - (ii) any other agreement between the applicant and the owner or the operator of the power line outside Canada, dealing with the financing, construction, and operation of the international power line and the power line outside Canada;
- (k) details regarding the provincial authorization requirements that are to be satisfied;
- (l) a description of the approvals that have been obtained or are expected to be obtained from all the provinces through which the line will pass;
- (m) a description of the relevant provincial review procedures including
 - (i) a description of the review process applicable to each provincial approval that has been obtained or is expected to be obtained,
 - (ii) details regarding any public consultation provided for under each review process described in subparagraph (i),
 - (iii) a schedule for each review process described in subparagraph (i); and
- (n) an assessment, which may consist in whole or in part of reports prepared for other regulatory authorities, of the probable environmental impact of the international power line, and a statement of the proposed measures to mitigate the environmental impact of the line, including terminal facilities;
- (o) evidence to demonstrate that the proposal does not contravene relevant federal environmental standards or guidelines;

(p) a description of any negative impacts that the proposal might have outside of the sponsoring province or provinces.

(q) a schedule showing the projected dates for

(i) each approval and authorization respecting the international power line, including terminal facilities, and

(ii) the start and completion of construction of the international power line and the power line outside of Canada;

(r) a statement indicating whether or not the proposed power line is supported by all of the provinces through which it will pass; and

(s) a description of the status of the approval process for the power line outside of Canada.

Terms and Conditions of Certificates and Permits for International Power Lines

5. Where, pursuant to section 58.11 of the Act, the Board issues a permit authorizing the construction and operation of an international power line, the Board may attach to the permit terms and conditions respecting the following matters:

(a) the owner and operator of the facilities;

(b) the location of the facilities;

(c) the electrical and physical characteristics of the facilities;

(d) policies, practices, and procedures related to the construction and operation of such facilities and related to the protection of the environment affected by the facilities;

(e) the filing requirements related to monitoring the construction, operation, and environmental impacts of the facilities;

(f) requirements for the prior approval of any change that may be required to the facilities;

(g) circumstances that would cause the revocation of the permit; and

(h) requirements relating to possible reliability effects of the proposed facilities.

6. Every certificate for the construction and operation of an international power line is subject to such terms and conditions as the Board may prescribe and, without restricting the generality of the foregoing, is subject to every statement set out by the Board in the certificate respecting the matters listed in section 5 of these Regulations.

7. The election that an applicant for or holder of a permit or certificate may file with the Board pursuant to section 58.23 of the Act shall be in the form set out in the schedule.

Information to be Furnished by Applicants for Authorization to Export Electricity

8. Every applicant for an authorization for a border accommodation transfer shall furnish to the Board, unless the Board is of the opinion that such information is not necessary to dispose of the application, the following information:

(a) the name, address, telephone number and other telecommunication numbers of the applicant, or the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;

(b) a statement setting forth

(i) the estimated maximum firm power export for each year in the period for which the authorization is sought,

(ii) the estimated maximum monthly and annual quantities of firm energy exports for each year in the period for which the authorization is sought; and

(c) a copy of the electricity sale contract covering the proposed exportation of electricity;

(d) in cases in which the application is not related to a specific export contract, a copy of each interconnection or exchange agreement covering the contractual arrangements under which the proposed exportation would take place;

(e) a brief description of the international power line over which the applicant proposes to export electricity, setting forth

(i) the number of the certificate or permit issued by the Board,

(ii) the name of the holder of the certificate or permit,

(iii) the name of the owner of the power line outside Canada that at the boundary crossing is connected to the international power line, and

(iv) the voltage level of the international power line;

(f) the name, address, and brief description of each person or agency to be supplied outside Canada and a statement of the load to be supplied to each;

(g) a description of the provincial approvals that have been obtained or are expected to be obtained; and

(h) a description of the status of the process of obtaining approvals related to the importation of electricity into the country to which it is to be exported.

9. The information required to be furnished by all other applicants for authorizations to export electricity shall, unless the Board is of the opinion that such information is not necessary to dispose of the application, include:

- (a) the name, address, telephone number and other telecommunication numbers of the applicant, or of the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;
- (b) a brief description of the applicant, including a description of the applicant's power system, a copy of the applicant's latest annual report, and the applicant's most recent publicly available generation or development plan;
- (c) in the case of an export sale transfer, a statement setting forth
 - (i) the estimated maximum firm power export for each year in the period for which the authorization is sought,
 - (ii) the estimated maximum combined firm and interruptible power exports for each year in the period for which the authorization is sought,
 - (iii) the estimated maximum monthly and annual quantities of firm energy exports for each year in the period for which the authorization is sought,
 - (iv) the estimated maximum annual quantities of interruptible energy exports for each year in the period for which the authorization is sought, and
 - (v) information respecting any import sale transfers corresponding to the information requested in subparagraphs (i) to (iv),
- (d) in the case of an equichange, storage, adjustment or carrier transfer or circulating power flow, a statement of the annual quantities of energy for exportation and for importation for each type of transfer for the period for which the authorization is sought;
- (e) a copy of each bulk electricity sale agreement covering the proposed exportation of electricity;
- (f) in cases in which the application is not related to a specific export contract, a copy of each interconnection or exchange agreement covering the contractual arrangements under which the proposed exportation would take place;
- (g) a list of the international power lines over which the applicant proposes to export or import electricity, setting forth in respect of each line
 - (i) the number of the certificate or permit issued by the Board,
 - (ii) the name of the holder of the certificate or permit,
 - (iii) the name of the owner of the power line outside Canada that at the boundary crossing is connected to the international power line,
 - (iv) the voltage level and operating designation of each circuit,
 - (v) the maximum power transfer capability of each circuit giving the basis for this limit, and
 - (vi) the total simultaneous power transfer capability under normal operating conditions for all the international power lines listed in this paragraph;

- (h) the name, address, and brief description of each person or agency to be supplied outside Canada and a statement of the load to be supplied to each;
- (i) a copy of the latest annual report of each person or agency to be supplied outside Canada;
- (j) a description of the status of the process of obtaining approvals related to the importation of electricity into the country to which it is to be exported; and
- (k) details regarding the provincial authorization requirements that are to be satisfied;
- (l) a description of the provincial approvals that have been obtained or are expected to be obtained;
- (m) a description of the relevant provincial review procedures including
 - (i) a description of the review process applicable to each provincial approval that has been obtained or is expected to be obtained,
 - (ii) details regarding any public consultation provided for under each review process described in subparagraph (i), and
 - (iii) a schedule for each review process described in subparagraph (i);
- (n) an assessment, which may consist in whole or in part of reports prepared for other regulatory authorities, of the probable environmental impact of the proposed exportation and a statement of any measures that will be taken to mitigate the environmental impact;
- (o) evidence to demonstrate that the proposed exportation does not contravene relevant federal environmental standards or guidelines;
- (p) a description of any negative impacts that the proposed exportation might have outside of the sponsoring province or provinces; and
- (q) evidence to demonstrate that
 - (i) those who have declared an interest in buying electricity for consumption in Canada have been informed by the applicant of the quantities and classes of service available for sale, and
 - (ii) those who, within a reasonable time after being so informed, having demonstrated an intention to buy electricity for consumption in Canada, have been given by the applicant an opportunity to purchase electricity on terms and conditions as favourable as the terms and conditions specified in the application.

Terms and Conditions of Licences and Permits for the Export of Electricity

10. Every licence or permit for the export of electricity shall state the quantities of power and energy in terms of kilowatts and kilowatt hours, or multiples thereof, that may be exported thereunder, the quantities if any that may be imported as an offset to the export, and the maximum quantities for any daily, monthly, annual or other appropriate period with respect to both exports and imports.

11. Where, pursuant to section 119.03 of the Act, the Board issues a permit authorizing the exportation of electricity, the Board may attach to the permit terms and conditions respecting the following matters:

- (a) the duration of the permit;
- (b) the maximum quantities of power and energy authorized;
- (c) the classes of power or energy transfers authorized;
- (d) the firmness or interruptibility of each class of transfer;
- (e) conditions under which the permit holder must curtail or interrupt the export;
- (f) the international power lines over which transfers are authorized;
- (g) requirements relating to the measurement of power and energy for the purposes of the permit;
- (h) any changes in circumstances about which the permit holder is required to inform the Board;
- (i) requirements relating to the filing of any amendments that may be made to an export agreement;
- (j) requirements relating to the protection of the environment
- (k) requirements relating to the possible reliability effects of the export; and
- (l) requirements relating to the fair market access to be provided by the permit holder to potential Canadian buyers.

12. Every licence is subject to such terms and conditions as the Board may prescribe and, without restricting the generality of the foregoing, is subject to every statement set out by the Board in the licence respecting the matters listed in section 11 of these Regulations.

Units of Measurement

13. (1) For the purposes of these Regulations, power and energy shall be measured in accordance with the Electricity and Gas Inspection Act.

(2) For the purpose of these Regulations,

(a) a unit of

- (i) power shall be 1 watt or any decimal multiple or sub-multiple thereof, and
- (ii) energy shall be 1 watt hour or any decimal multiple or sub-multiple thereof,

where the multiples or sub-multiples are those accepted for use in the International System of Units (SI);

(b) 1 watt hour shall be the energy produced from a power source of 1 watt during a period of 3600 seconds; and

(c) 1 watt and 1 second have the same meanings as in Schedule I to the Weights and Measures Act.

Inspection

14. (1) A member of the Board or any person authorized by the Board in writing for the purpose may, in connection with any licence or permit issued under Division II of Part VI of the Act or for any other reason relating to the administration or enforcement of the Act or these Regulations, at any reasonable time,

(a) enter any premises in which electricity is generated or produced for export from Canada or is exported from Canada;

(b) inspect any plant, equipment, instruments or devices used for or in connection with the exportation of electricity and make such reasonable tests thereon as he deems necessary; or

(c) inspect any books, records or accounts used for or in connection with the exportation of electricity;

(2) A person authorized by the Board to exercise any of the powers referred to in subsection (1) shall, upon demand made to him at any time while he is exercising any such powers, produce his authority in writing from the Board in such behalf.

(3) Any person who is the operator or who is in charge of any of the places, equipment, plant or records mentioned in subsection (1) shall permit or assist any member of the Board or any person authorized by the Board in the exercise of the powers conferred by subsection (1).

SCHEDULE

(s.7)

Form 1

To: The Secretary
National Energy Board
473 Albert Street
Ottawa, Ontario
K1A 0E5

(Date)

This constitutes the election of _____ under section
58.23 of the _____
National Energy Board Act. print name

The international power line in respect of which the provisions of the National
Energy Board Act referred to in section 58.27 of that Act and not the laws of the province
shall apply, may be described as follows: *(give a brief description of the power line).*

From: _____
Name

Address

City, Prov., Postal Code

Signature

National Energy Board



Office national de l'énergie

File No.: 3500-4

4 March 1993

TO: ALL COMPANIES UNDER THE BOARD'S JURISDICTION AND OTHER
INTERESTED PARTIES

Re: **Memorandum of Guidance Concerning**
Early Public Notification of Proposed Applications

The subject Memorandum of Guidance is an update of the original one dated 28 June 1990 and replaces it.

The changes to the Memorandum of Guidance are a result of the Board's review of the Memorandum of Guidance concerning Early Public Notification following the decision from the Federal Court of Appeal in the case of *Attorney General of Québec v. National Energy Board* ([1991] 3F.C.443) ("the *Hydro Québec* decision"). In that decision, the Court held that the Board's jurisdiction over exports (in that case, electricity exports) did not extend to facilities for the production of goods for export, and that in considering an application for leave to export, the Board cannot have regard to anything but the export of electricity. As a result of the *Hydro Québec* decision, the Board has concluded that it will not be necessary to undertake an Early Public Notification Process for export applications under Part VI of the National Energy Board Act.

The intent of the attached Memorandum of Guidance is to provide for public input during the planning and development stage of projects which may be incorporated into applications to the Board. Providing early public notification of proposed facilities applications under Part III of the NEB Act, and timely public input contributes to the improvement of the Board's regulatory process. The Board expects all parties to comply with the requirements of the Memorandum of Guidance.

For further information, please contact the undersigned at (403) 299-2711.

Yours truly,

J.S. Richardson
Secretary

Attach.

National Energy Board



Office national de l'énergie

File No.: 3500-4

28 June 1990

Revised the 4 March 1993

TO: ALL COMPANIES UNDER THE BOARD'S JURISDICTION
AND OTHER INTERESTED PARTIES

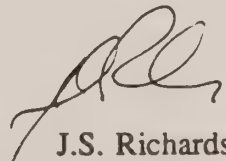
MEMORANDUM OF GUIDANCE

Re: Public Notification of Proposed Facilities Applications for Issuance
of a Certificate, an Order, or a Permit Pursuant to Sections 52, 58, 58.11 and
58.16 of the *National Energy Board Act* ("the Act")

The Board has set out the following directions to be implemented by applicants for authorizations pursuant to Sections 52, 58, 58.11 and 58.16 of the Act:

1. Unless otherwise authorized by the Board, prior to the filing of an application, an applicant shall:
 - (A) implement a public information program to explain the proposal under review, its potential environmental and social effects, and to allow an opportunity for public comment. The information to be provided shall include as a minimum a map to identify the project location and sufficient information that the potential environmental and social effects of the proposal can be identified;
 - (B) provide interested parties adequate time to comment on the proposal; and
 - (C) respond to any relevant questions that may be raised by an interested party.
2. When filing its application with the Board, an applicant shall:
 - (A) provide a description of the nature of the public information program, the means and date of public notification, and the date and location of meetings, if any, and shall include a summary of public comments received and concerns expressed regarding the proposal's potential environmental or social effects; and

- (B) provide such additional information on the public information program as may be requested by the Board.
3. If the applicant determines that the potential environmental or social effects of the proposal are insignificant, the applicant may request exemption from the requirements of Sections 1 and 2.
4. Sections 1, 2 and 3 shall not apply with respect to those facilities applications which relate to the following:
- (A) work contained within the confines of station property or other property either owned or leased by the applicant, other than facilities:
 - (i) related to the storage or disposal of toxic substances,
 - (ii) that will result in increased noise emissions, or
 - (iii) that will result in increased emissions of air contaminants;
 - (B) additional acquisitions required to support the day-to-day operations of a pipeline or international power line, e.g. standby plant, or materials and supplies;
 - (C) work performed on the right-of-way which relates to routine maintenance, emergency repairs and installations, and contingency projects; and
 - (D) the construction and operation of international power lines not exceeding an operating voltage of fifty kilovolts and for which no significant environmental or social concerns are identified.



J.S. Richardson
Secretary

**GUIDELINES ON THE ENVIRONMENTAL INFORMATION REQUIRED WITH
APPLICATIONS FOR AUTHORIZATIONS FOR INTERNATIONAL POWER LINES**

1. General Requirement

When an election is filed by an applicant or by a holder of a permit or certificate pursuant to Section 58.23 of the Act, the applicant or the holder of a permit or certificate is required to furnish an assessment of the probable environmental impact of the power line. Although the details of such an assessment should be commensurate with the magnitude and complexity of the expected impact, this guideline describes the type of information that should be provided.

2. Application for Exemption

Applicants for authorization for lines of voltage not exceeding 50 kV, unless otherwise required by the Board, are exempted from these requirements.

3. Submission of Studies and Other Applications

With the environmental assessment, the applicant shall submit copies of

- a) any studies that have been made on the environmental impact of the proposed line or any part thereof, and
- b) any applications to and decisions by public bodies relating to the line.

4. The Existing Environment

The applicant shall provide:

- a) a map or maps of scale at least 1:50,000, based on either maps of the National Topographic System or on aerial photographs, to show the proposed right-of-way, and for a width of at least one kilometre on each side of the power line to portray the following:
 - i. the surface and near surface geology;
 - ii. soil types, classified in the Canadian system;
 - iii. any recognized geological or hydrological hazards (such as landslides, mudflows, floods, earthquakes, etc.);
 - iv. the habitats of terrestrial animal life, wetland furbearers and waterfowl, of recognized importance;
 - v. the habitats of rare or endangered plant species;
 - vi. the spawning beds of fish species of recognized importance;
 - vii. the locations of public recreational areas;

- viii. special areas such as national and historic parks, provincial parks, historic and archaeological sites, ecological reserves, conservation areas, Indian reserves, etc;
 - ix. existing land use;
 - x. water supply intakes;
 - xi. existing and proposed transmission towers and other power facilities; and
 - xii. any proposed construction roads and camps; and
- b) a description of the environmental components listed in subsection (a).

5. Environmental Standards

The applicant shall state what environmental standards, specifications or guidelines, if any, would be followed in the planning, design, construction and operation of the line.

6. The Environmental Impact

The applicant shall state:

- a) what width of right-of-way is proposed, and why this width was selected;
- b) what changes the construction and operation of the line and of any associated temporary or permanent roads would cause to:
 - i. land drainage and erosion;
 - ii. vegetation;
 - iii. wildlife, especially rare or endangered species;
 - iv. fish spawning and productivity;
 - v. agriculture, recreation and other human activities;
 - vi. water supplies; and
 - vii. land valuesshowing in each case what methods would be used to minimize undesirable effects, and why such effects should not be further reduced;
- c) what efforts would be made to ensure that the right-of-way:
 - i. avoids scenic, historic, residential and recreational areas; and
 - ii. minimizes conflict with any present or approved future land use;
- d) what efforts would be made to minimize the marring of the landscape by the right-of-way, to improve the appearance of the line, to screen it from highways and

other areas of public view, and to blend it into the environment;

- e) what plans have been made for surface restoration after construction, and for the disposal of construction excavation debris and wastes;
- f) what pesticides or herbicides would be used in the construction and maintenance of the right-of-way, including quantities, methods of application, and effects;
- g) what supervision and inspection of environmental effects and protection would be provided:
 - i. during construction; and
 - ii. during subsequent operation;
- h) what steps would be taken to minimize radio and television interference, and what levels would be expected in decibels above one microvolt per metre at the edge of the right-of-way under fair and foul weather conditions;
- i) for transmission voltage above 240 kV, what levels of
 - i. audible noise in decibels, and
 - ii. ozone concentration in parts per billion would be expected at ground level at the edge of the right-of-way under fair and foul weather conditions;
- j) for transmission voltages above 240kV, what values of electric field gradient in kilovolts per metre would be expected at mid-span
 - i. directly under the outermost conductor, and
 - ii. at the edge of the right-of-way;and what measures, if any, would be taken to protect people or livestock contacting vehicles or metallic structures under the line from electric shock resulting from induced voltages;
- k) for any substation facilities forming part of the international power line, the audible noise in decibels that would be caused at the property line, a description of the public exposure to such noise, and the steps that would be taken to minimize the noise, and;
- l) the potential for adverse effects on human health of the electric and magnetic fields produced by the proposed transmission line and the steps that would be taken to minimize those effects.

7. **Alternatives**

The applicant shall state what consideration was given to alternatives such as:

- i. different routes,
- ii. replacing or upgrading existing lines, or
- iii. multiple-use right-of-way with other utilities and why such alternatives were rejected.

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National Energy Board



Office national de l'énergie

File No.: 132-1
7 July 1993

**TO: ALL COMPANIES UNDER THE BOARD'S JURISDICTION AND OTHER
INTERESTED PARTIES**

**Re: Process Reforms Concerning Electricity Export and International Power Line
Applications**

Introduction

Since the National Energy Board Act ("the Act") was amended in 1990, the Board has processed a number of electricity export and international power line applications under its 22 June 1990 Memorandum of Guidance ("1990 MOG"). Based on the Board's experience in processing these applications, the Board has decided to change its processing procedures, as outlined in the 1990 MOG, to better reflect the intent of the amended Act and make the procedures more responsive to changing market conditions. Accordingly, the Board wishes to inform interested parties of these changes to its procedures which are effective immediately.

The Revised Process Procedures

The attached revised Memorandum of Guidance ("1993 MOG") supersedes and replaces the Board's 1990 MOG concerning full implementation of the September 1988 Canadian Electricity Policy. The following summary of the revisions is provided for information only. Readers should have regard to the text of the 1993 MOG before preparing an application.

(1) General Public Notice Requirements

To meet the notice publication requirements of the Act, all applicants shall publish a standard notice incorporating both a Notice of Application and a Directions on Procedure ("NOA/DOP") at the time an application is filed with the Board. The Board will no longer issue a separate DOP and NOA for each application after it has been filed with the Board. Accordingly, Appendices III and V of the 1990 MOG, concerning the notice to be published in the Canada Gazette and the DOP and associated NOA, have been superseded by Appendix I of the attached 1993 MOG.

.../2

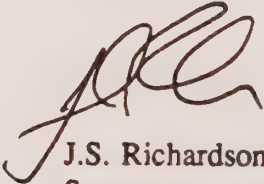
(2) Processing Procedures

In place of the processing procedures described on pages 4 and 5 of the 1990 MOG, applicants are required to follow the processing procedures set out in the attached 1993 MOG.

The new procedure to obtain comments of interested parties and applicants will be as follows:

1. After an applicant has published the NOA/DOP, interested parties will be able to receive a copy of the application and make submissions.
2. In the event that submissions are received, the applicant will be given an opportunity to answer the submissions.
3. In the event that the applicant answers the submissions, the interested parties will have a further opportunity to reply to the applicant's answer to their submissions.

Any inquiries with respect to the implementation measures described in this Memorandum of Guidance should be directed to Mr. Ivan Harvie, Chief, Regulatory Division, Electric Power Branch, telephone: (403) 299-3167, facsimile: (403) 292-5503.


J.S. Richardson
Secretary

Attachment



File No.: 132-1
22 June 1990
Revised 7 July 1993

**MEMORANDUM OF GUIDANCE¹ TO INTERESTED PARTIES CONCERNING
FULL IMPLEMENTATION OF THE SEPTEMBER 1988
CANADIAN ELECTRICITY POLICY**

INTRODUCTION

On 25 March 1990, Bill C-23, an Act to amend the National Energy Board Act and to repeal certain enactments in consequence thereof became law. It came into force on 1 June 1990 following proclamation by the Governor in Council. Hereinafter, the National Energy Board Act, as amended by Bill C-23, is referred to as "the Amended Act".

THE AMENDED ACT

Under the Amended Act, electricity exports and international power lines will normally be authorized by issuance of a permit, without a public hearing, unless the Governor in Council, upon the recommendation of the Board, designates a proposed export or an international power line for licencing or certificating procedures. In determining whether to make a recommendation to the Governor in Council, the Board shall seek to avoid the duplication of measures taken by the applicant and the government of the province from which electricity is to be exported or through which a line is to pass, and shall have regard to all considerations that appear to it to be relevant including any comments submitted by interested parties. In the case of a proposed export, those considerations shall include:

- (a) the effect of the exportation of the electricity on provinces other than that from which the electricity is to be exported;
- (b) the impact of the exportation on the environment;
- (c) whether the applicant has
 - (i) informed those who have declared an interest in buying electricity for consumption in Canada of the quantities and classes of service available for sale, and
 - (ii) given an opportunity to purchase electricity on terms and conditions as

¹ This Memorandum of Guidance supersedes that issued on 22 June 1990.

favourable as the terms and conditions specified in the application to those who, within a reasonable time of being so informed, demonstrate an intention to buy electricity for consumption in Canada²; and

- (d) such considerations as may be specified in the draft National Energy Board Electricity Regulations ("the Electricity Regulations")³.

Similarly, in the case of a proposed international power line, those considerations shall include:

- (a) the effect of the power line on provinces other than those through which the line is to pass;
- (b) the impact of the construction or operation of the power line on the environment; and
- (c) such considerations as may be specified in the Electricity Regulations.

Before issuing a permit, the Board will examine the application and its supporting information, the submissions of interested parties, and any other information that the Board might require to be furnished by the applicant⁴. Permits issued by the Board are not subject to Governor in Council approval. However, the Governor in Council may, up to 45 days following the issuance of a permit by the Board, issue an order revoking the permit and requiring that a proposed export or international power line be designated for a licencing or a certificating process.

The Board may, based on its examination of the adequacy of the application and any information submitted by interested parties, recommend to the Governor in Council that a proposed export of electricity or an international power line be designated for a licencing or certificating process requiring a public hearing.

Following the issuance of such a recommendation, which would be made public, if the Governor in Council does not make an order designating the proposed export or international power line for a licencing or certificating process, the Board shall issue a permit. Any permit issued by the Board is subject to such terms and conditions respecting any of the matters prescribed in the Electricity Regulations as may be imposed by the Board.

In the event that the Governor in Council does make an order designating a proposed export or international power line for a licencing or certificating process, the Board shall hold a public hearing and have regard to all considerations that appear to it to be relevant. Any licence or certificate that is issued by the Board is subject to the approval of the Governor in Council, and to such terms and

² This process is referred to as providing fair market access.

³ Attached as Appendix II to this MOG.

⁴ The Board may, within a reasonable time after publication of the notice of the application, require the applicant to furnish such information, in addition to that required to accompany the application, as the Board considers necessary which may include, among other things, information pertaining to matters raised by interested parties in their submissions.

conditions as the Board may impose.

The maximum period of any licence or permit to export electricity is 30 years from a date to be fixed in the respective authorization.

Finally, under the Amended Act, detailed routing and land acquisition in respect of international power lines will be carried out under provincial laws unless an applicant elects pursuant to section 58.23 of the Amended Act to have federal laws apply. In this case, the detailed routing and land acquisition procedures under the National Energy Board Act will apply.

PROCEDURES FOR PROCESSING EXPORT AND INTERNATIONAL POWER LINE APPLICATIONS UNDER THE AMENDED ACT

Early Public Notification Requirements

Parties applying for international power line authorizations are reminded that they must comply with the revised Memorandum of Guidance Concerning Early Public Notification of Proposed Applications, dated 4 March 1993, attached as Appendix III.

General Public Notice Requirements

In all cases, applicants for authorizations to export electricity or to construct and operate an international power line shall, at the time of filing an application with the Board, publish a Notice of Application and Directions on Procedure ("NOA/DOP")⁵ in the Canada Gazette in accordance with section 58.12 or 119.04 of the National Energy Board Act.

In addition, for electricity export applications other than border accommodation transfers⁶, applicants are directed to serve a copy of their application on each directly interconnected Canadian utility and to publish the NOA/DOP as follows:

A copy of the NOA/DOP must be published on the same date (insofar as it is possible to do so) in the Canada Gazette, Part 1 and:

- (a) in English in the largest paid circulation English language newspaper and in French in the largest paid circulation French language newspaper, published in the most populous community in the Applicant's service area; and
- (b) if the community referred to in (a) is not served by an English and a French language newspaper, the NOA/DOP must be published in both official languages in the newspaper

⁵ Examples of NOA/DOPs are attached for export applications (Appendix I(a)), border accommodations (Appendix I(b)) and international power lines (Appendices I(c) and I(d)).

⁶ A border accommodation transfer is a power or energy transfer for purposes of providing electricity service to a person in a foreign country who lacks ready access to service from an electric utility of that country, or to an international work (i.e. bridge, tunnel, etc.), or to a person in a foreign country who experiences an interruption in service from electric utilities in that foreign country.

which has the largest paid circulation in that community.

For applications for a permit to construct and operate an international power line exceeding an operating voltage of 50 kilovolts, applicants are directed to serve a copy of their application on each directly interconnected Canadian utility and to publish the NOA/DOP on the same date (insofar as it is possible to do so) in the Canada Gazette, Part I, in accordance with paragraphs (a) or (b) above, and:

- (c) in English in the largest paid circulation English language newspaper and in French in the largest paid circulation French language newspaper, published in each county and district through which the proposed line will pass; or
- (d) if a county or district through which the proposed line will pass is not served by an English and a French language newspaper, the NOA/DOP must be published in both official languages in the newspaper having the largest paid circulation in that county or district.

For lines of an operating voltage not exceeding 50 kilovolts, applicants are required to publish the NOA/DOP in the Canada Gazette as noted above, and in accordance with (c) or (d) above.

- * **Note:** It is the responsibility of the applicants to ensure that correct notices in English and French are published to reach both language groups.

If applicants wish a variance from the requirements to publish notices in the above noted newspapers because of the limited and/or local nature of their application, they may request relief from the Board prior to filing their application with the Board. Such a request shall include a proposed alternative, for prior Board approval, for the publication of the NOA/DOP in local newspapers or bulletins, as appropriate, in order to inform potentially affected interested parties.

Applicants shall file with the Board, as soon as possible after the date of publication in the newspapers, copies of each newspaper tear sheet showing the NOA/DOP as published.

Information to be Furnished by Applicants

- (a) Applicants for authorization to export electricity are relieved of the need to comply with the provisions of subsection 6(2) of the Part VI Regulations.
- (b) In place of the information referred to in item (a), applicants for authorizations to export electricity are required to furnish such information as set out in section 8 or section 9 of the Electricity Regulations. The information set out in section 8 is required to be furnished by applicants for authorizations for border accommodation transfers and the information set out in section 9 is required to be furnished by all other applicants. In addition, in accordance with section 119.05 of the Amended Act, the Board may require the applicant to furnish additional information to help it determine whether it wishes to recommend that a proposed export be designated for a licencing process.
- (c) Pursuant to subsection 5(1)(b) of the National Energy Board Rules of Practice and Procedure, applicants for authorization of international power lines are relieved of the

need to comply with the provisions of Part III of the Schedule of the Rules of Practice and Procedure.

- (d) In place of the information for which an exemption has been granted in item (c), applicants are required to furnish such information as set out in section 3 or section 4 of the Electricity Regulations. The information set out in section 3 is required to be furnished by applicants proposing to construct and operate international power lines not exceeding an operating voltage of 50 kilovolts and the information set out in section 4 is required to be furnished by all other applicants. In addition, in accordance with Section 58.13 of the Amended Act the Board may require the applicant to furnish additional information to help it determine whether to recommend that a proposed international power line be designated for a certificating process.

Processing Procedures

Persons wishing to make a submission advocating the imposition of permit terms and conditions, or the recommendation by the Board to the Governor in Council requesting designation for licencing/certification procedures, must provide information to support their submission.

Submitters are advised that they should raise all their concerns in their submissions. Submitters will have the final right of reply in permit applications.

Upon submission of an application to the Board, the following procedure will apply:

Following publication by the applicant of the NOA/DOP and verification by the Board of all required information, and after a 30-day period from the date of publication of the NOA/DOP to allow for comments by interested parties, the Board will either

- (a) if no submissions are received and if the application conforms with the requirements of the Amended Act, issue a permit⁷, which shall be sent to the applicant, or
- (b) if submissions are received, allow a further 15-day period for the applicant to answer the submissions and a further 10 days for the submitter to reply to the applicant's response to his submission.

Following the time to allow for the filing of responses as outlined in (b) above, the Board will, based on its examination of the application and the submissions and responses, issue a permit⁷ or make a recommendation to the Governor in Council for designation of the application. If a permit is issued, a copy of the permit will be sent to the applicant and to all interested parties.

⁷ Subject to such terms and conditions respecting matters prescribed by the Electricity Regulations as the Board considers necessary or desirable.

Terms and Conditions of Permits

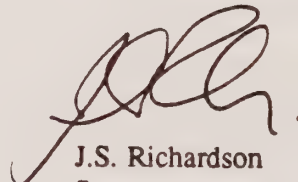
The matters in respect of which terms and conditions of export permits may be imposed are set out in section 10, and those relating to international power line permits are set out in section 5 of the Electricity Regulations.

Detailed Routing of International Power Lines

Applicants who wish to have the detailed routing and land acquisition procedures of the Act apply to an existing or proposed international power line are required to file an election in the form set out in the schedule to the Electricity Regulations.

Applicants choosing to file an election should have regard to the Guidelines on the Environmental Information Required with Applications for Authorizations for International Power Lines contained in Appendix IV. These guidelines apply only where applicants elect to locate and construct the international power line under federal jurisdiction.

Any inquiries with respect to the implementation measures described in this Memorandum of Guidance should be directed to Mr. Ivan Harvie, Chief, Regulatory Division, Electric Power Branch, telephone (403) 299-3167, facsimile: (403) 292-5503.



J.S. Richardson
Secretary

Attach.

**EXAMPLE OF NOTICE TO BE PUBLISHED
FOR ELECTRICITY EXPORTS**

**Notice of Application and Directions on Procedure
Alpha Electric
Application to Export Electricity to the Omega Power Authority
of the United States**

By an application dated 1 July 1993, Alpha Electric ("the Applicant") has applied to the National Energy Board ("the Board") under Division II of Part VI of the *National Energy Board Act* ("the Act") for authorization to export 500 megawatts of firm power and 2 000 gigawatt-hours per year of firm energy for a period of 5 years commencing on 1 November 1993. This export would be in accordance with the terms of the firm power and energy contract between Alpha Electric and the Omega Power Authority executed on 1 June 1993.

The Board wishes to obtain the views of interested parties on this application before issuing a permit or recommending to the Governor in Council that a public hearing be held. The Directions on Procedure that follow explain in detail the procedure that will be used.

1. The Applicant shall deposit and keep on file, for public inspection during normal business hours, copies of the application at its offices located at (the Applicant's address) and provide a copy of the application to any person who requests a copy. A copy of the application is also available for viewing during normal business hours in the Board's library, Room 100, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2.
2. Submissions that any party wishes to present shall be filed with the Secretary of the Board, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2, facsimile: (403)292-5503, and the Applicant by (insert a date 30 days after the date of publication of this notice, i.e. 31 July 1993).
3. Pursuant to Section 119.06(2) of the Act, the Board shall have regard to all considerations that appear to it to be relevant. In particular, the Board is interested in the views of submitters with respect to:
 - a) the effect of the exportation of the electricity on provinces other than that from which the electricity is to be exported;
 - * b) the impact of the exportation on the environment; and

- (c) whether the applicant has
- (i) informed those who have declared an interest in buying electricity for consumption in Canada of the quantities and classes of service available for sale, and
 - (ii) given an opportunity to purchase electricity on terms and conditions as favourable as the terms and conditions specified in the application to those who, within a reasonable time of being so informed, demonstrate an intention to buy electricity for consumption in Canada.

- * 4. The Board will also conduct an initial assessment, pursuant to the *Environmental Assessment and Review Process Guidelines Order*, of the potential environmental effects and the directly-related socio-economic effects of the proposal. Written comments to be considered during the Board's assessment shall be filed with the Secretary and should accompany any submissions parties file to the application by (insert same date as in number 2 above, i.e. 31 July 1993).
5. Any answer to submissions that the Applicant wishes to present in response to items 2 and 3 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the date in number 2 above, i.e. 15 August 1993).
6. Any reply that submitters wish to present in response to item 5 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the date in number 5 above, i.e. 25 August 1993).
7. For further information on the procedures governing the Board's review, contact J.S. Richardson, Secretary (403) 299-2711 facsimile: (403) 292-5503.

* Please note that in considering the impact of the export on the environment, the jurisdiction of the Board incorporates matters relating to the impact of sending electricity from Canada but does not include any environmental impact associated with the production of electricity for export.

**EXAMPLE OF NOTICE TO BE PUBLISHED FOR
BORDER ACCOMMODATIONS**

ALPHA ELECTRIC

Application for Authorization to Export

Electricity

Canada Gazette Part I

15 February 1993

Alpha Electric of 720 - 12th Avenue S.W., Calgary, Alberta, T2R 1J3, hereby gives notice that it has, under Division II of Part VI of the *National Energy Board Act*, filed an application dated 15 February 1993, with the National Energy Board for authorization to export energy to the Omega Power Authority of the United States. The export will be for the period 1 April 1993 to 31 October 2003, up to a maximum of 1 megawatt.

Written submissions in respect of the application shall be filed with the Secretary, National Energy Board, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2, facsimile: (403)292-5503, and with Alpha Electric by 17 March 1993 (i.e. 30 days after the date of publication of this notice).

Any answer to such submissions that the Applicant wishes to present shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the above date, i.e. 1 April 1993).

Any reply that parties wish to present in response to the Applicant shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the above date, i.e. 11 April 1993).

**EXAMPLE OF NOTICE TO BE PUBLISHED FOR
INTERNATIONAL POWER LINES
EXCEEDING 50 KILOVOLTS**

**Notice of Application and Directions on Procedure
Sigma Electric
Application to Construct and Operate an International Power Line
to the Beta Power Company of the United States**

By an application dated 1 July 1993, Sigma Electric ("the Applicant") has applied to the National Energy Board ("the Board") under Part III.1 of the *National Energy Board Act* ("the Act") for authorization to construct and operate a 345 000 volt three-phase international power line. The line would extend a distance of approximately 20 km southward from the (X) substation, located in (Location) in Canada, to the northern perimeter of the town of (Location), then southwest a further 50 km to a point on the international boundary located at (Location). The line would be constructed in accordance with the terms of the contract between Sigma Electric and the Beta Power Company executed on 1 June 1993.

The Board wishes to obtain the views of interested parties on this application before issuing a permit or recommending to the Governor in Council that a public hearing be held. The Directions on Procedure that follow explain in detail the procedure that will be used.

1. The Applicant shall deposit and keep on file, for public inspection during normal business hours, copies of the application at its offices located at (insert Applicant's address) and provide a copy of the application to any person who requests a copy. A copy of the application is also available for viewing during normal business hours in the Board's library, Room 100, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2.
2. Submissions that any party wishes to present shall be filed with the Secretary of the Board, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2, facsimile: (403)292-5503, and the Applicant by (insert a date 30 days after the date of publication of this notice, i.e. 31 July 1993).
3. Pursuant to Section 58.14(2) of the Act, the Board shall have regard to all considerations that appear to it to be relevant. In particular, the Board is interested in the views of submitters with respect to:

- a) the effect of the power line on provinces other than those through which the line is to pass; and
 - b) the impact of the construction or operation of the power line on the environment.
4. The Board will also conduct an initial assessment, pursuant to the *Environmental Assessment and Review Process Guidelines Order*, of the potential environmental effects and the directly-related socio-economic effects of the proposal. Written comments to be considered during the Board's assessment shall be filed with the Secretary and should accompany any submissions parties file to the application by (insert same date as in number 2 above, i.e. 31 July 1993).
5. Any answer to submissions that the Applicant wishes to present in response to items 2 and 3 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the date in number 2 above, i.e. 15 August 1993).
6. Any reply that submitters wish to present in response to item 5 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the date in number 5 above, i.e. 25 August 1993).
7. For further information on the procedures governing the Board's review, contact J.S. Richardson, Secretary (403) 299-2711, facsimile: (403) 292-5503.

**EXAMPLE OF NOTICE TO BE PUBLISHED
FOR INTERNATIONAL POWER LINES NOT EXCEEDING
AN OPERATING VOLTAGE OF 50 KILOVOLTS**

ALPHA ELECTRIC

**Application for Authorization to Construct and Operate
an International Power Line**

Canada Gazette Part I

15 February 1993

Alpha Electric of 720 - 12th Avenue S.W., Calgary, Alberta, T2R 1J3, hereby gives notice that it has, under Part III.1 of the *National Energy Board Act*, filed an application dated 15 February 1993, with the National Energy Board for authorization to construct and operate a 25 000 volt single phase international power line. The line would extend a distance of approximately 2 km southward from the (X) substation, located in (Location) in Canada, to the northern perimeter of the town of (Location), then southwest a further 1 km to a point on the international boundary located at (Location).

Written submissions in respect of the application shall be filed with the Secretary, National Energy Board, 311 - Sixth Avenue, Calgary, Alberta, T2P 3H2, facsimile: (403)292-5503, and with Alpha Electric by 17 March 1993 (i.e. 30 days after the date of publication of this notice).

Any answer to such submissions that the Applicant wishes to present shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the above date, i.e. 1 April 1993).

Any reply that parties wish to present in response to the Applicant shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the above date, i.e. 11 April 1993).

**REGULATIONS FOR CARRYING INTO EFFECT THE PROVISIONS OF THE
NATIONAL ENERGY BOARD ACT RESPECTING INTERNATIONAL POWER
LINES AND ELECTRICITY EXPORTS**

Short Title

1. These Regulations may be cited as the National Energy Board Electricity Regulations.

Interpretation

2. In these Regulations,

"Act" means the National Energy Board Act; (Loi)

"adjustment transfer" means a power or energy transfer for purposes such as to adjust energy account balances, to compensate for services rendered, to deliver output entitlements, or to deliver upstream or downstream benefits; (transfert en vue d'une correction)

"border accommodation transfer" means a power or energy transfer for purposes of providing electricity service to a customer in a foreign country who lacks ready access to services from an electric utility of that country; (transfert en vue de service frontalier)

"carrier transfer" means a transfer of power or energy wheeled from one electrical utility through circuits of another electrical utility that acts as a carrier for delivery to a third party or to the originating utility; (transfert relatif au transport)

"certificate" means a certificate under Part III.1 of the Act; (certificat)

"circulating power flow" means an unscheduled flow of electricity that occurs whenever loop circuits are formed by multiple transmission lines; (débit de puissance en circuit bouclé)

"energy" means energy in the form of electricity, expressed in units of watt hours or decimal multiples or sub-multiples of watt hours; (énergie)

"equichange transfer" means an interchange of equal quantities of power or energy within a stated period; (transfert d'équivalents)

"firm energy" means energy intended to be available at all specified times during a period covered by an agreement respecting the sale thereof; (énergie garantie);

"firm power" means power or power-production capacity intended to be available at all specified times during a period covered by an agreement respecting the sale thereof; (puissance garantie)

"interruptible energy" means energy made available under an agreement that permits curtailment or cessation of delivery at the option of the supplier; (énergie interruptible)

"interruptible power" means power made available under an agreement that permits curtailment or cessation of availability at the option of the supplier; (puissance interruptible)

"licence" means a licence under Division II of Part VI of the Act; (licence)

"notice" means a notice of the application published by the applicant in accordance with section 58.12 of Part III.1 of the Act or section 119.04 of Division II of Part VI of the Act; (avis)

"power" means the rate of transferring energy, expressed in units of watts or decimal multiples or sub-multiples of watts; (puissance)

"power transfer capability" means the amount of power that can be transferred from the circuits of one electric utility system to another while meeting reliability criteria for the transmission system; (capacité de transfert de puissance)

"sale transfer" means a transfer of power and energy under a contract of sale; (transfert en vue de la vente)

"storage transfer" means an energy transfer banked for the time being in the form of water in reservoir space of another electrical utility, in the expectation that equivalent energy will be returned at a later time. (transfert en vue de l'emmagasinage)

Information to be Furnished by Applicants for Authorization to Construct and Operate International Power Lines

3. Every applicant for an authorization to construct and operate an international power line, not exceeding an operating voltage of fifty kilovolts, shall furnish to the Board, unless the Board is of the opinion that such information is not necessary to dispose of the application, the following information:

(a) the name, address, telephone number and other telecommunication numbers of the applicant, or of the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;

(b) the name and address of the owner and of the operator of the international power line, if different from the applicant;

(c) a map, at a scale sufficient to locate and identify all relevant features, showing

(i) all terminal points, the route, the international boundary crossover point, and the distance in kilometers from the international boundary crossover point to each terminal point of the international power line,

(ii) cities, towns, and villages, rivers, major roads, railways and navigable waters through, under or across which the line is to pass, and

(iii) the power line outside Canada that at the crossover point is connected to the international power line and hereafter is referred to as "the power line outside Canada";

(d) a description from which the international boundary crossover point can be accurately determined on the ground;

(e) the name and address of the owner and the operator of the power line outside Canada;

(f) a brief description of the proposed line, setting forth the voltage level and the maximum power transfer capability;

(g) a copy of the agreement, if any, between the applicant and the owner or the operator of the power line outside Canada, dealing with the financing, construction, and operation of the international power line and the power line outside Canada;

(h) a description of the approvals that have been obtained or are expected to be obtained from all of the provinces through which the line will pass; and

(i) a description of the status of the approval process for the power line outside of Canada.

4. Every applicant for an authorization to construct and operate an international power line, exceeding an operating voltage of fifty kilovolts, shall furnish to the Board, unless the Board is of the opinion that such information is not necessary to dispose of the application, the following information:

(a) the name, address, telephone number and other telecommunication numbers of the applicant, or of the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;

(b) a brief description of the applicant, including a description of the applicant's power system and a copy of the applicant's annual report;

(c) the name and address of the owner and of the operator of the international power line, if different from the applicant;

(d) a map, at a scale sufficient to locate and identify all relevant features, showing

(i) all terminal points, the route, the international boundary crossover point, and the distance in kilometers from the international boundary crossover point to each terminal point of the international power line,

(ii) cities, towns, and villages, rivers, major roads, railways and navigable waters through, under or across which the line is to pass, and

(iii) the power line outside Canada that at the crossover point is connected to the international power line and hereafter is referred to as "the power line outside Canada";

(e) a description from which the international boundary crossover point can be accurately determined on the ground;

- (f) the name and address of the owner and the operator of the power line outside Canada;
- (g) a copy of the annual report of the owner and the operator of the power line outside Canada;
- (h) with respect to each circuit and terminal facility of the international power line, and of the power line outside Canada
 - (i) a brief engineering description,
 - (ii) a single-line diagram,
 - (iii) the design capabilities for sustained transmission of power under winter and summer conditions, and
 - (iv) the criteria that underlie the stated capabilities;
- (i) the power transfer capabilities between the applicant's power system and the power system outside Canada to which power is to be delivered, before and after the addition of the international power line, stating the criteria that underlie the stated capabilities;
- (j) a copy of:
 - (i) each interconnection or transaction agreement relating to the construction of the international power line, and
 - (ii) any other agreement between the applicant and the owner or the operator of the power line outside Canada, dealing with the financing, construction, and operation of the international power line and the power line outside Canada;
- (k) details regarding the provincial authorization requirements that are to be satisfied;
- (l) a description of the approvals that have been obtained or are expected to be obtained from all the provinces through which the line will pass;
- (m) a description of the relevant provincial review procedures including
 - (i) a description of the review process applicable to each provincial approval that has been obtained or is expected to be obtained,
 - (ii) details regarding any public consultation provided for under each review process described in subparagraph (i),
 - (iii) a schedule for each review process described in subparagraph (i); and
- (n) an assessment, which may consist in whole or in part of reports prepared for other regulatory authorities, of the probable environmental impact of the international power line, and a statement of the proposed measures to mitigate the environmental impact of the line, including terminal facilities;
- (o) evidence to demonstrate that the proposal does not contravene relevant federal environmental standards or guidelines;

(p) a description of any negative impacts that the proposal might have outside of the sponsoring province or provinces.

(q) a schedule showing the projected dates for

(i) each approval and authorization respecting the international power line, including terminal facilities, and

(ii) the start and completion of construction of the international power line and the power line outside of Canada;

(r) a statement indicating whether or not the proposed power line is supported by all of the provinces through which it will pass; and

(s) a description of the status of the approval process for the power line outside of Canada.

Terms and Conditions of Certificates and Permits for International Power Lines

5. Where, pursuant to section 58.11 of the Act, the Board issues a permit authorizing the construction and operation of an international power line, the Board may attach to the permit terms and conditions respecting the following matters:

(a) the owner and operator of the facilities;

(b) the location of the facilities;

(c) the electrical and physical characteristics of the facilities;

(d) policies, practices, and procedures related to the construction and operation of such facilities and related to the protection of the environment affected by the facilities;

(e) the filing requirements related to monitoring the construction, operation, and environmental impacts of the facilities;

(f) requirements for the prior approval of any change that may be required to the facilities;

(g) circumstances that would cause the revocation of the permit; and

(h) requirements relating to possible reliability effects of the proposed facilities.

6. Every certificate for the construction and operation of an international power line is subject to such terms and conditions as the Board may prescribe and, without restricting the generality of the foregoing, is subject to every statement set out by the Board in the certificate respecting the matters listed in section 5 of these Regulations.

7. The election that an applicant for or holder of a permit or certificate may file with the Board pursuant to section 58.23 of the Act shall be in the form set out in the schedule.

Information to be Furnished by Applicants for Authorization to Export Electricity

8. Every applicant for an authorization for a border accommodation transfer shall furnish to the Board, unless the Board is of the opinion that such information is not necessary to dispose of the application, the following information:

(a) the name, address, telephone number and other telecommunication numbers of the applicant, or the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;

(b) a statement setting forth

(i) the estimated maximum firm power export for each year in the period for which the authorization is sought,

(ii) the estimated maximum monthly and annual quantities of firm energy exports for each year in the period for which the authorization is sought; and

(c) a copy of the electricity sale contract covering the proposed exportation of electricity;

(d) in cases in which the application is not related to a specific export contract, a copy of each interconnection or exchange agreement covering the contractual arrangements under which the proposed exportation would take place;

(e) a brief description of the international power line over which the applicant proposes to export electricity, setting forth

(i) the number of the certificate or permit issued by the Board,

(ii) the name of the holder of the certificate or permit,

(iii) the name of the owner of the power line outside Canada that at the boundary crossing is connected to the international power line, and

(iv) the voltage level of the international power line;

(f) the name, address, and brief description of each person or agency to be supplied outside Canada and a statement of the load to be supplied to each;

(g) a description of the provincial approvals that have been obtained or are expected to be obtained; and

(h) a description of the status of the process of obtaining approvals related to the importation of electricity into the country to which it is to be exported.

9. The information required to be furnished by all other applicants for authorizations to export electricity shall, unless the Board is of the opinion that such information is not necessary to dispose of the application, include:

(a) the name, address, telephone number and other telecommunication numbers of the applicant, or of the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;

(b) a brief description of the applicant, including a description of the applicant's power system, a copy of the applicant's latest annual report, and the applicant's most recent publicly available generation or development plan;

(c) in the case of an export sale transfer, a statement setting forth

(i) the estimated maximum firm power export for each year in the period for which the authorization is sought,

(ii) the estimated maximum combined firm and interruptible power exports for each year in the period for which the authorization is sought,

(iii) the estimated maximum monthly and annual quantities of firm energy exports for each year in the period for which the authorization is sought,

(iv) the estimated maximum annual quantities of interruptible energy exports for each year in the period for which the authorization is sought, and

(v) information respecting any import sale transfers corresponding to the information requested in subparagraphs (i) to (iv),

(d) in the case of an equichange, storage, adjustment or carrier transfer or circulating power flow, a statement of the annual quantities of energy for exportation and for importation for each type of transfer for the period for which the authorization is sought;

(e) a copy of each bulk electricity sale agreement covering the proposed exportation of electricity;

(f) in cases in which the application is not related to a specific export contract, a copy of each interconnection or exchange agreement covering the contractual arrangements under which the proposed exportation would take place;

(g) a list of the international power lines over which the applicant proposes to export or import electricity, setting forth in respect of each line

(i) the number of the certificate or permit issued by the Board,

(ii) the name of the holder of the certificate or permit,

(iii) the name of the owner of the power line outside Canada that at the boundary crossing is connected to the international power line,

(iv) the voltage level and operating designation of each circuit,

(v) the maximum power transfer capability of each circuit giving the basis for this limit, and

(vi) the total simultaneous power transfer capability under normal operating conditions for all the international power lines listed in this paragraph;

- (h) the name, address, and brief description of each person or agency to be supplied outside Canada and a statement of the load to be supplied to each;
- (i) a copy of the latest annual report of each person or agency to be supplied outside Canada;
- (j) a description of the status of the process of obtaining approvals related to the importation of electricity into the country to which it is to be exported; and
- (k) details regarding the provincial authorization requirements that are to be satisfied;
- (l) a description of the provincial approvals that have been obtained or are expected to be obtained;
- (m) a description of the relevant provincial review procedures including
 - (i) a description of the review process applicable to each provincial approval that has been obtained or is expected to be obtained,
 - (ii) details regarding any public consultation provided for under each review process described in subparagraph (i), and
 - (iii) a schedule for each review process described in subparagraph (i);
- (n) an assessment, which may consist in whole or in part of reports prepared for other regulatory authorities, of the probable environmental impact of the proposed exportation and a statement of any measures that will be taken to mitigate the environmental impact;
- (o) evidence to demonstrate that the proposed exportation does not contravene relevant federal environmental standards or guidelines;
- (p) a description of any negative impacts that the proposed exportation might have outside of the sponsoring province or provinces; and
- (q) evidence to demonstrate that
 - (i) those who have declared an interest in buying electricity for consumption in Canada have been informed by the applicant of the quantities and classes of service available for sale, and
 - (ii) those who, within a reasonable time after being so informed, having demonstrated an intention to buy electricity for consumption in Canada, have been given by the applicant an opportunity to purchase electricity on terms and conditions as favourable as the terms and conditions specified in the application.

Terms and Conditions of Licences and Permits for the Export of Electricity

10. Every licence or permit for the export of electricity shall state the quantities of power and energy in terms of kilowatts and kilowatt hours, or multiples thereof, that may be exported thereunder, the quantities if any that may be imported as an offset to the export, and the maximum quantities for any daily, monthly, annual or other appropriate period with respect to both exports and imports.

11. Where, pursuant to section 119.03 of the Act, the Board issues a permit authorizing the exportation of electricity, the Board may attach to the permit terms and conditions respecting the following matters:

- (a) the duration of the permit;
- (b) the maximum quantities of power and energy authorized;
- (c) the classes of power or energy transfers authorized;
- (d) the firmness or interruptibility of each class of transfer;
- (e) conditions under which the permit holder must curtail or interrupt the export;
- (f) the international power lines over which transfers are authorized;
- (g) requirements relating to the measurement of power and energy for the purposes of the permit;
- (h) any changes in circumstances about which the permit holder is required to inform the Board;
- (i) requirements relating to the filing of any amendments that may be made to an export agreement;
- (j) requirements relating to the protection of the environment
- (k) requirements relating to the possible reliability effects of the export; and
- (l) requirements relating to the fair market access to be provided by the permit holder to potential Canadian buyers.

12. Every licence is subject to such terms and conditions as the Board may prescribe and, without restricting the generality of the foregoing, is subject to every statement set out by the Board in the licence respecting the matters listed in section 11 of these Regulations.

Units of Measurement

13. (1) For the purposes of these Regulations, power and energy shall be measured in accordance with the Electricity and Gas Inspection Act.

(2) For the purpose of these Regulations,

(a) a unit of

- (i) power shall be 1 watt or any decimal multiple or sub-multiple thereof, and
- (ii) energy shall be 1 watt hour or any decimal multiple or sub-multiple thereof,

where the multiples or sub-multiples are those accepted for use in the International System of Units (SI);

(b) 1 watt hour shall be the energy produced from a power source of 1 watt during a period of 3600 seconds; and

(c) 1 watt and 1 second have the same meanings as in Schedule I to the Weights and Measures Act.

Inspection

14. (1) A member of the Board or any person authorized by the Board in writing for the purpose may, in connection with any licence or permit issued under Division II of Part VI of the Act or for any other reason relating to the administration or enforcement of the Act or these Regulations, at any reasonable time,

(a) enter any premises in which electricity is generated or produced for export from Canada or is exported from Canada;

(b) inspect any plant, equipment, instruments or devices used for or in connection with the exportation of electricity and make such reasonable tests thereon as he deems necessary; or

(c) inspect any books, records or accounts used for or in connection with the exportation of electricity;

(2) A person authorized by the Board to exercise any of the powers referred to in subsection (1) shall, upon demand made to him at any time while he is exercising any such powers, produce his authority in writing from the Board in such behalf.

(3) Any person who is the operator or who is in charge of any of the places, equipment, plant or records mentioned in subsection (1) shall permit or assist any member of the Board or any person authorized by the Board in the exercise of the powers conferred by subsection (1).

SCHEDULE

(s.7)

Form 1

To: The Secretary
National Energy Board
473 Albert Street
Ottawa, Ontario
K1A 0E5

(Date)

This constitutes the election of _____ under section
58.23 of the _____
National Energy Board Act. print name

The international power line in respect of which the provisions of the National
Energy Board Act referred to in section 58.27 of that Act and not the laws of the province
shall apply, may be described as follows: *(give a brief description of the power line).*

From: _____
Name

Address

City, Prov., Postal Code

Signature

National Energy Board



Office national de l'énergie

File No.: 3500-4

4 March 1993

TO: ALL COMPANIES UNDER THE BOARD'S JURISDICTION AND OTHER
INTERESTED PARTIES

Re: **Memorandum of Guidance Concerning**
Early Public Notification of Proposed Applications

The subject Memorandum of Guidance is an update of the original one dated 28 June 1990 and replaces it.

The changes to the Memorandum of Guidance are a result of the Board's review of the Memorandum of Guidance concerning Early Public Notification following the decision from the Federal Court of Appeal in the case of *Attorney General of Québec v. National Energy Board* ([1991] 3F.C.443) ("the *Hydro Québec* decision"). In that decision, the Court held that the Board's jurisdiction over exports (in that case, electricity exports) did not extend to facilities for the production of goods for export, and that in considering an application for leave to export, the Board cannot have regard to anything but the export of electricity. As a result of the *Hydro Québec* decision, the Board has concluded that it will not be necessary to undertake an Early Public Notification Process for export applications under Part VI of the National Energy Board Act.

The intent of the attached Memorandum of Guidance is to provide for public input during the planning and development stage of projects which may be incorporated into applications to the Board. Providing early public notification of proposed facilities applications under Part III of the NEB Act, and timely public input contributes to the improvement of the Board's regulatory process. The Board expects all parties to comply with the requirements of the Memorandum of Guidance.

For further information, please contact the undersigned at (403) 299-2711.

Yours truly,

J.S. Richardson
Secretary

Attach.

National Energy Board



Office national de l'énergie

File No.: 3500-4

28 June 1990

Revised the 4 March 1993

TO: ALL COMPANIES UNDER THE BOARD'S JURISDICTION
AND OTHER INTERESTED PARTIES

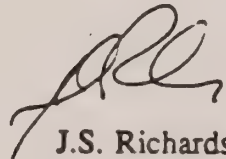
MEMORANDUM OF GUIDANCE

Re: Public Notification of Proposed Facilities Applications for Issuance
of a Certificate, an Order, or a Permit Pursuant to Sections 52, 58, 58.11 and
58.16 of the *National Energy Board Act* ("the Act")

The Board has set out the following directions to be implemented by applicants for authorizations pursuant to Sections 52, 58, 58.11 and 58.16 of the Act:

1. Unless otherwise authorized by the Board, prior to the filing of an application, an applicant shall:
 - (A) implement a public information program to explain the proposal under review, its potential environmental and social effects, and to allow an opportunity for public comment. The information to be provided shall include as a minimum a map to identify the project location and sufficient information that the potential environmental and social effects of the proposal can be identified;
 - (B) provide interested parties adequate time to comment on the proposal; and
 - (C) respond to any relevant questions that may be raised by an interested party.
2. When filing its application with the Board, an applicant shall:
 - (A) provide a description of the nature of the public information program, the means and date of public notification, and the date and location of meetings, if any, and shall include a summary of public comments received and concerns expressed regarding the proposal's potential environmental or social effects; and

- (B) provide such additional information on the public information program as may be requested by the Board.
- 3. If the applicant determines that the potential environmental or social effects of the proposal are insignificant, the applicant may request exemption from the requirements of Sections 1 and 2.
- 4. Sections 1, 2 and 3 shall not apply with respect to those facilities applications which relate to the following:
 - (A) work contained within the confines of station property or other property either owned or leased by the applicant, other than facilities:
 - (i) related to the storage or disposal of toxic substances,
 - (ii) that will result in increased noise emissions, or
 - (iii) that will result in increased emissions of air contaminants;
 - (B) additional acquisitions required to support the day-to-day operations of a pipeline or international power line, e.g. standby plant, or materials and supplies;
 - (C) work performed on the right-of-way which relates to routine maintenance, emergency repairs and installations, and contingency projects; and
 - (D) the construction and operation of international power lines not exceeding an operating voltage of fifty kilovolts and for which no significant environmental or social concerns are identified.



J.S. Richardson
Secretary

**GUIDELINES ON THE ENVIRONMENTAL INFORMATION REQUIRED WITH
APPLICATIONS FOR AUTHORIZATIONS FOR INTERNATIONAL POWER LINES**

1. General Requirement

When an election is filed by an applicant or by a holder of a permit or certificate pursuant to Section 58.23 of the Act, the applicant or the holder of a permit or certificate is required to furnish an assessment of the probable environmental impact of the power line. Although the details of such an assessment should be commensurate with the magnitude and complexity of the expected impact, this guideline describes the type of information that should be provided.

2. Application for Exemption

Applicants for authorization for lines of voltage not exceeding 50 kV, unless otherwise required by the Board, are exempted from these requirements.

3. Submission of Studies and Other Applications

With the environmental assessment, the applicant shall submit copies of

- a) any studies that have been made on the environmental impact of the proposed line or any part thereof, and
- b) any applications to and decisions by public bodies relating to the line.

4. The Existing Environment

The applicant shall provide:

- a) a map or maps of scale at least 1:50,000, based on either maps of the National Topographic System or on aerial photographs, to show the proposed right-of-way, and for a width of at least one kilometre on each side of the power line to portray the following:
 - i. the surface and near surface geology;
 - ii. soil types, classified in the Canadian system;
 - iii. any recognized geological or hydrological hazards (such as landslides, mudflows, floods, earthquakes, etc.);
 - iv. the habitats of terrestrial animal life, wetland furbearers and waterfowl, of recognized importance;
 - v. the habitats of rare or endangered plant species;
 - vi. the spawning beds of fish species of recognized importance;
 - vii. the locations of public recreational areas;

- viii. special areas such as national and historic parks, provincial parks, historic and archaeological sites, ecological reserves, conservation areas, Indian reserves, etc;
 - ix. existing land use;
 - x. water supply intakes;
 - xi. existing and proposed transmission towers and other power facilities; and
 - xii. any proposed construction roads and camps; and
- b) a description of the environmental components listed in subsection (a).

5. Environmental Standards

The applicant shall state what environmental standards, specifications or guidelines, if any, would be followed in the planning, design, construction and operation of the line.

6. The Environmental Impact

The applicant shall state:

- a) what width of right-of-way is proposed, and why this width was selected;
- b) what changes the construction and operation of the line and of any associated temporary or permanent roads would cause to:
 - i. land drainage and erosion;
 - ii. vegetation;
 - iii. wildlife, especially rare or endangered species;
 - iv. fish spawning and productivity;
 - v. agriculture, recreation and other human activities;
 - vi. water supplies; and
 - vii. land valuesshowing in each case what methods would be used to minimize undesirable effects, and why such effects should not be further reduced;
- c) what efforts would be made to ensure that the right-of-way:
 - i. avoids scenic, historic, residential and recreational areas; and
 - ii. minimizes conflict with any present or approved future land use;
- d) what efforts would be made to minimize the marring of the landscape by the right-of-way, to improve the appearance of the line, to screen it from highways and

other areas of public view, and to blend it into the environment;

- e) what plans have been made for surface restoration after construction, and for the disposal of construction excavation debris and wastes;
- f) what pesticides or herbicides would be used in the construction and maintenance of the right-of-way, including quantities, methods of application, and effects;
- g) what supervision and inspection of environmental effects and protection would be provided:
 - i. during construction; and
 - ii. during subsequent operation;
- h) what steps would be taken to minimize radio and television interference, and what levels would be expected in decibels above one microvolt per metre at the edge of the right-of-way under fair and foul weather conditions;
- i) for transmission voltage above 240 kV, what levels of
 - i. audible noise in decibels, and
 - ii. ozone concentration in parts per billion would be expected at ground level at the edge of the right-of-way under fair and foul weather conditions;
- j) for transmission voltages above 240kV, what values of electric field gradient in kilovolts per metre would be expected at mid-span
 - i. directly under the outermost conductor, and
 - ii. at the edge of the right-of-way;and what measures, if any, would be taken to protect people or livestock contacting vehicles or metallic structures under the line from electric shock resulting from induced voltages;
- k) for any substation facilities forming part of the international power line, the audible noise in decibels that would be caused at the property line, a description of the public exposure to such noise, and the steps that would be taken to minimize the noise, and;
- l) the potential for adverse effects on human health of the electric and magnetic fields produced by the proposed transmission line and the steps that would be taken to minimize those effects.

7. **Alternatives**

The applicant shall state what consideration was given to alternatives such as:

- i. different routes,
- ii. replacing or upgrading existing lines, or
- iii. multiple-use right-of-way with other utilities and why such alternatives were rejected.

National Energy Board



Office national de l'énergie

File No.: 132-1
7 July 1993

**TO: ALL COMPANIES UNDER THE BOARD'S JURISDICTION AND OTHER
INTERESTED PARTIES**

**Re: Process Reforms Concerning Electricity Export and International Power Line
Applications**

Introduction

Since the National Energy Board Act ("the Act") was amended in 1990, the Board has processed a number of electricity export and international power line applications under its 22 June 1990 Memorandum of Guidance ("1990 MOG"). Based on the Board's experience in processing these applications, the Board has decided to change its processing procedures, as outlined in the 1990 MOG, to better reflect the intent of the amended Act and make the procedures more responsive to changing market conditions. Accordingly, the Board wishes to inform interested parties of these changes to its procedures which are effective immediately.

The Revised Process Procedures

The attached revised Memorandum of Guidance ("1993 MOG") supersedes and replaces the Board's 1990 MOG concerning full implementation of the September 1988 Canadian Electricity Policy. The following summary of the revisions is provided for information only. Readers should have regard to the text of the 1993 MOG before preparing an application.

(1) General Public Notice Requirements

To meet the notice publication requirements of the Act, all applicants shall publish a standard notice incorporating both a Notice of Application and a Directions on Procedure ("NOA/DOP") at the time an application is filed with the Board. The Board will no longer issue a separate DOP and NOA for each application after it has been filed with the Board. Accordingly, Appendices III and V of the 1990 MOG, concerning the notice to be published in the Canada Gazette and the DOP and associated NOA, have been superseded by Appendix I of the attached 1993 MOG.

.../2

(2) Processing Procedures

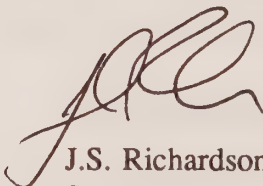
In place of the processing procedures described on pages 4 and 5 of the 1990 MOG, applicants are required to follow the processing procedures set out in the attached 1993 MOG.

The new procedure to obtain comments of interested parties and applicants will be as follows:

1. After an applicant has published the NOA/DOP, interested parties will be able to receive a copy of the application and make submissions.
2. In the event that submissions are received, the applicant will be given an opportunity to answer the submissions.
3. In the event that the applicant answers the submissions, the interested parties will have a further opportunity to reply to the applicant's answer to their submissions.

Any inquiries with respect to the implementation measures described in this Memorandum of Guidance should be directed to Mr. Ivan Harvie, Chief, Regulatory Division, Electric Power Branch, telephone: (403) 299-3167, facsimile: (403) 292-5503.




J.S. Richardson
Secretary

Attachment



File No.: 132-1
22 June 1990
Revised 7 July 1993

**MEMORANDUM OF GUIDANCE¹ TO INTERESTED PARTIES CONCERNING
FULL IMPLEMENTATION OF THE SEPTEMBER 1988
CANADIAN ELECTRICITY POLICY**

INTRODUCTION

On 25 March 1990, Bill C-23, an Act to amend the National Energy Board Act and to repeal certain enactments in consequence thereof became law. It came into force on 1 June 1990 following proclamation by the Governor in Council. Hereinafter, the National Energy Board Act, as amended by Bill C-23, is referred to as "the Amended Act".

THE AMENDED ACT

Under the Amended Act, electricity exports and international power lines will normally be authorized by issuance of a permit, without a public hearing, unless the Governor in Council, upon the recommendation of the Board, designates a proposed export or an international power line for licencing or certifying procedures. In determining whether to make a recommendation to the Governor in Council, the Board shall seek to avoid the duplication of measures taken by the applicant and the government of the province from which electricity is to be exported or through which a line is to pass, and shall have regard to all considerations that appear to it to be relevant including any comments submitted by interested parties. In the case of a proposed export, those considerations shall include:

- (a) the effect of the exportation of the electricity on provinces other than that from which the electricity is to be exported;
- (b) the impact of the exportation on the environment;
- (c) whether the applicant has
 - (i) informed those who have declared an interest in buying electricity for consumption in Canada of the quantities and classes of service available for sale, and
 - (ii) given an opportunity to purchase electricity on terms and conditions as

¹ This Memorandum of Guidance supersedes that issued on 22 June 1990.

favourable as the terms and conditions specified in the application to those who, within a reasonable time of being so informed, demonstrate an intention to buy electricity for consumption in Canada²; and

- (d) such considerations as may be specified in the draft National Energy Board Electricity Regulations ("the Electricity Regulations")³.

Similarly, in the case of a proposed international power line, those considerations shall include:

- (a) the effect of the power line on provinces other than those through which the line is to pass;
- (b) the impact of the construction or operation of the power line on the environment; and
- (c) such considerations as may be specified in the Electricity Regulations.

Before issuing a permit, the Board will examine the application and its supporting information, the submissions of interested parties, and any other information that the Board might require to be furnished by the applicant⁴. Permits issued by the Board are not subject to Governor in Council approval. However, the Governor in Council may, up to 45 days following the issuance of a permit by the Board, issue an order revoking the permit and requiring that a proposed export or international power line be designated for a licencing or a certificating process.

The Board may, based on its examination of the adequacy of the application and any information submitted by interested parties, recommend to the Governor in Council that a proposed export of electricity or an international power line be designated for a licencing or certificating process requiring a public hearing.

Following the issuance of such a recommendation, which would be made public, if the Governor in Council does not make an order designating the proposed export or international power line for a licencing or certificating process, the Board shall issue a permit. Any permit issued by the Board is subject to such terms and conditions respecting any of the matters prescribed in the Electricity Regulations as may be imposed by the Board.

In the event that the Governor in Council does make an order designating a proposed export or international power line for a licencing or certificating process, the Board shall hold a public hearing and have regard to all considerations that appear to it to be relevant. Any licence or certificate that is issued by the Board is subject to the approval of the Governor in Council, and to such terms and

² This process is referred to as providing fair market access.

³ Attached as Appendix II to this MOG.

⁴ The Board may, within a reasonable time after publication of the notice of the application, require the applicant to furnish such information, in addition to that required to accompany the application, as the Board considers necessary which may include, among other things, information pertaining to matters raised by interested parties in their submissions.

conditions as the Board may impose.

The maximum period of any licence or permit to export electricity is 30 years from a date to be fixed in the respective authorization.

Finally, under the Amended Act, detailed routing and land acquisition in respect of international power lines will be carried out under provincial laws unless an applicant elects pursuant to section 58.23 of the Amended Act to have federal laws apply. In this case, the detailed routing and land acquisition procedures under the National Energy Board Act will apply.

PROCEDURES FOR PROCESSING EXPORT AND INTERNATIONAL POWER LINE APPLICATIONS UNDER THE AMENDED ACT

Early Public Notification Requirements

Parties applying for international power line authorizations are reminded that they must comply with the revised Memorandum of Guidance Concerning Early Public Notification of Proposed Applications, dated 4 March 1993, attached as Appendix III.

General Public Notice Requirements

In all cases, applicants for authorizations to export electricity or to construct and operate an international power line shall, at the time of filing an application with the Board, publish a Notice of Application and Directions on Procedure ("NOA/DOP")⁵ in the Canada Gazette in accordance with section 58.12 or 119.04 of the National Energy Board Act.

In addition, for electricity export applications other than border accommodation transfers⁶, applicants are directed to serve a copy of their application on each directly interconnected Canadian utility and to publish the NOA/DOP as follows:

A copy of the NOA/DOP must be published on the same date (insofar as it is possible to do so) in the Canada Gazette, Part 1 and:

- (a) in English in the largest paid circulation English language newspaper and in French in the largest paid circulation French language newspaper, published in the most populous community in the Applicant's service area; and
- (b) if the community referred to in (a) is not served by an English and a French language newspaper, the NOA/DOP must be published in both official languages in the newspaper

⁵ Examples of NOA/DOPs are attached for export applications (Appendix I(a)), border accommodations (Appendix I(b)) and international power lines (Appendices I(c) and I(d)).

⁶ A border accommodation transfer is a power or energy transfer for purposes of providing electricity service to a person in a foreign country who lacks ready access to service from an electric utility of that country, or to an international work (i.e. bridge, tunnel, etc.), or to a person in a foreign country who experiences an interruption in service from electric utilities in that foreign country.

which has the largest paid circulation in that community.

For applications for a permit to construct and operate an international power line exceeding an operating voltage of 50 kilovolts, applicants are directed to serve a copy of their application on each directly interconnected Canadian utility and to publish the NOA/DOP on the same date (insofar as it is possible to do so) in the Canada Gazette, Part I, in accordance with paragraphs (a) or (b) above, and:

- (c) in English in the largest paid circulation English language newspaper and in French in the largest paid circulation French language newspaper, published in each county and district through which the proposed line will pass; or
- (d) if a county or district through which the proposed line will pass is not served by an English and a French language newspaper, the NOA/DOP must be published in both official languages in the newspaper having the largest paid circulation in that county or district.

For lines of an operating voltage not exceeding 50 kilovolts, applicants are required to publish the NOA/DOP in the Canada Gazette as noted above, and in accordance with (c) or (d) above.

* **Note:** It is the responsibility of the applicants to ensure that correct notices in English and French are published to reach both language groups.

If applicants wish a variance from the requirements to publish notices in the above noted newspapers because of the limited and/or local nature of their application, they may request relief from the Board prior to filing their application with the Board. Such a request shall include a proposed alternative, for prior Board approval, for the publication of the NOA/DOP in local newspapers or bulletins, as appropriate, in order to inform potentially affected interested parties.

Applicants shall file with the Board, as soon as possible after the date of publication in the newspapers, copies of each newspaper tear sheet showing the NOA/DOP as published.

Information to be Furnished by Applicants

- (a) Applicants for authorization to export electricity are relieved of the need to comply with the provisions of subsection 6(2) of the Part VI Regulations.
- (b) In place of the information referred to in item (a), applicants for authorizations to export electricity are required to furnish such information as set out in section 8 or section 9 of the Electricity Regulations. The information set out in section 8 is required to be furnished by applicants for authorizations for border accommodation transfers and the information set out in section 9 is required to be furnished by all other applicants. In addition, in accordance with section 119.05 of the Amended Act, the Board may require the applicant to furnish additional information to help it determine whether it wishes to recommend that a proposed export be designated for a licencing process.
- (c) Pursuant to subsection 5(1)(b) of the National Energy Board Rules of Practice and Procedure, applicants for authorization of international power lines are relieved of the

need to comply with the provisions of Part III of the Schedule of the Rules of Practice and Procedure.

- (d) In place of the information for which an exemption has been granted in item (c), applicants are required to furnish such information as set out in section 3 or section 4 of the Electricity Regulations. The information set out in section 3 is required to be furnished by applicants proposing to construct and operate international power lines not exceeding an operating voltage of 50 kilovolts and the information set out in section 4 is required to be furnished by all other applicants. In addition, in accordance with Section 58.13 of the Amended Act the Board may require the applicant to furnish additional information to help it determine whether to recommend that a proposed international power line be designated for a certificating process.

Processing Procedures

Persons wishing to make a submission advocating the imposition of permit terms and conditions, or the recommendation by the Board to the Governor in Council requesting designation for licencing/certification procedures, must provide information to support their submission.

Submitters are advised that they should raise all their concerns in their submissions. Submitters will have the final right of reply in permit applications.

Upon submission of an application to the Board, the following procedure will apply:

Following publication by the applicant of the NOA/DOP and verification by the Board of all required information, and after a 30-day period from the date of publication of the NOA/DOP to allow for comments by interested parties, the Board will either

- (a) **if no submissions are received** and if the application conforms with the requirements of the Amended Act, issue a permit⁷, which shall be sent to the applicant, or
- (b) **if submissions are received**, allow a further 15-day period for the applicant to answer the submissions and a further 10 days for the submitter to reply to the applicant's response to his submission.

Following the time to allow for the filing of responses as outlined in (b) above, the Board will, based on its examination of the application and the submissions and responses, issue a permit⁷ or make a recommendation to the Governor in Council for designation of the application. If a permit is issued, a copy of the permit will be sent to the applicant and to all interested parties.

⁷ Subject to such terms and conditions respecting matters prescribed by the Electricity Regulations as the Board considers necessary or desirable.

Terms and Conditions of Permits

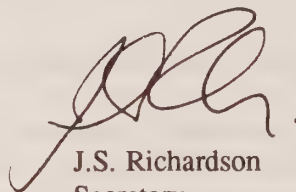
The matters in respect of which terms and conditions of export permits may be imposed are set out in section 10, and those relating to international power line permits are set out in section 5 of the Electricity Regulations.

Detailed Routing of International Power Lines

Applicants who wish to have the detailed routing and land acquisition procedures of the Act apply to an existing or proposed international power line are required to file an election in the form set out in the schedule to the Electricity Regulations.

Applicants choosing to file an election should have regard to the Guidelines on the Environmental Information Required with Applications for Authorizations for International Power Lines contained in Appendix IV. These guidelines apply only where applicants elect to locate and construct the international power line under federal jurisdiction.

Any inquiries with respect to the implementation measures described in this Memorandum of Guidance should be directed to Mr. Ivan Harvie, Chief, Regulatory Division, Electric Power Branch, telephone (403) 299-3167, facsimile: (403) 292-5503.



J.S. Richardson
Secretary

Attach.

**EXAMPLE OF NOTICE TO BE PUBLISHED
FOR ELECTRICITY EXPORTS**

**Notice of Application and Directions on Procedure
Alpha Electric
Application to Export Electricity to the Omega Power Authority
of the United States**

By an application dated 1 July 1993, Alpha Electric ("the Applicant") has applied to the National Energy Board ("the Board") under Division II of Part VI of the *National Energy Board Act* ("the Act") for authorization to export 500 megawatts of firm power and 2 000 gigawatt-hours per year of firm energy for a period of 5 years commencing on 1 November 1993. This export would be in accordance with the terms of the firm power and energy contract between Alpha Electric and the Omega Power Authority executed on 1 June 1993.

The Board wishes to obtain the views of interested parties on this application before issuing a permit or recommending to the Governor in Council that a public hearing be held. The Directions on Procedure that follow explain in detail the procedure that will be used.

1. The Applicant shall deposit and keep on file, for public inspection during normal business hours, copies of the application at its offices located at (the Applicant's address) and provide a copy of the application to any person who requests a copy. A copy of the application is also available for viewing during normal business hours in the Board's library, Room 100, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2.
2. Submissions that any party wishes to present shall be filed with the Secretary of the Board, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2, facsimile: (403)292-5503, and the Applicant by (insert a date 30 days after the date of publication of this notice, i.e. 31 July 1993).
3. Pursuant to Section 119.06(2) of the Act, the Board shall have regard to all considerations that appear to it to be relevant. In particular, the Board is interested in the views of submitters with respect to:
 - a) the effect of the exportation of the electricity on provinces other than that from which the electricity is to be exported;
 - * b) the impact of the exportation on the environment; and

- (c) whether the applicant has
 - (i) informed those who have declared an interest in buying electricity for consumption in Canada of the quantities and classes of service available for sale, and
 - (ii) given an opportunity to purchase electricity on terms and conditions as favourable as the terms and conditions specified in the application to those who, within a reasonable time of being so informed, demonstrate an intention to buy electricity for consumption in Canada.

- * 4. The Board will also conduct an initial assessment, pursuant to the *Environmental Assessment and Review Process Guidelines Order*, of the potential environmental effects and the directly-related socio-economic effects of the proposal. Written comments to be considered during the Board's assessment shall be filed with the Secretary and should accompany any submissions parties file to the application by (insert same date as in number 2 above, i.e. 31 July 1993).
- 5. Any answer to submissions that the Applicant wishes to present in response to items 2 and 3 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the date in number 2 above, i.e. 15 August 1993).
- 6. Any reply that submitters wish to present in response to item 5 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the date in number 5 above, i.e. 25 August 1993).
- 7. For further information on the procedures governing the Board's review, contact J.S. Richardson, Secretary (403) 299-2711 facsimile: (403) 292-5503.

* Please note that in considering the impact of the export on the environment, the jurisdiction of the Board incorporates matters relating to the impact of sending electricity from Canada but does not include any environmental impact associated with the production of electricity for export.

**EXAMPLE OF NOTICE TO BE PUBLISHED FOR
BORDER ACCOMMODATIONS**

ALPHA ELECTRIC

Application for Authorization to Export

Electricity

Canada Gazette Part I

15 February 1993

Alpha Electric of 720 - 12th Avenue S.W., Calgary, Alberta, T2R 1J3, hereby gives notice that it has, under Division II of Part VI of the *National Energy Board Act*, filed an application dated 15 February 1993, with the National Energy Board for authorization to export energy to the Omega Power Authority of the United States. The export will be for the period 1 April 1993 to 31 October 2003, up to a maximum of 1 megawatt.

Written submissions in respect of the application shall be filed with the Secretary, National Energy Board, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2, facsimile: (403)292-5503, and with Alpha Electric by 17 March 1993 (i.e. 30 days after the date of publication of this notice).

Any answer to such submissions that the Applicant wishes to present shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the above date, i.e. 1 April 1993).

Any reply that parties wish to present in response to the Applicant shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the above date, i.e. 11 April 1993).

**EXAMPLE OF NOTICE TO BE PUBLISHED FOR
INTERNATIONAL POWER LINES
EXCEEDING 50 KILOVOLTS**

**Notice of Application and Directions on Procedure
Sigma Electric
Application to Construct and Operate an International Power Line
to the Beta Power Company of the United States**

By an application dated 1 July 1993, Sigma Electric ("the Applicant") has applied to the National Energy Board ("the Board") under Part III.1 of the *National Energy Board Act* ("the Act") for authorization to construct and operate a 345 000 volt three-phase international power line. The line would extend a distance of approximately 20 km southward from the (X) substation, located in (Location) in Canada, to the northern perimeter of the town of (Location), then southwest a further 50 km to a point on the international boundary located at (Location). The line would be constructed in accordance with the terms of the contract between Sigma Electric and the Beta Power Company executed on 1 June 1993.

The Board wishes to obtain the views of interested parties on this application before issuing a permit or recommending to the Governor in Council that a public hearing be held. The Directions on Procedure that follow explain in detail the procedure that will be used.

1. The Applicant shall deposit and keep on file, for public inspection during normal business hours, copies of the application at its offices located at (insert Applicant's address) and provide a copy of the application to any person who requests a copy. A copy of the application is also available for viewing during normal business hours in the Board's library, Room 100, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2.
2. Submissions that any party wishes to present shall be filed with the Secretary of the Board, 311 - Sixth Avenue S.W., Calgary, Alberta, T2P 3H2, facsimile: (403)292-5503, and the Applicant by (insert a date 30 days after the date of publication of this notice, i.e. 31 July 1993).
3. Pursuant to Section 58.14(2) of the Act, the Board shall have regard to all considerations that appear to it to be relevant. In particular, the Board is interested in the views of submitters with respect to:

- a) the effect of the power line on provinces other than those through which the line is to pass; and
 - b) the impact of the construction or operation of the power line on the environment.
4. The Board will also conduct an initial assessment, pursuant to the *Environmental Assessment and Review Process Guidelines Order*, of the potential environmental effects and the directly-related socio-economic effects of the proposal. Written comments to be considered during the Board's assessment shall be filed with the Secretary and should accompany any submissions parties file to the application by (insert same date as in number 2 above, i.e. 31 July 1993).
5. Any answer to submissions that the Applicant wishes to present in response to items 2 and 3 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the date in number 2 above, i.e. 15 August 1993).
6. Any reply that submitters wish to present in response to item 5 of this Notice of Application and Directions on Procedure shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the date in number 5 above, i.e. 25 August 1993).
7. For further information on the procedures governing the Board's review, contact J.S. Richardson, Secretary (403) 299-2711, facsimile: (403) 292-5503.

**EXAMPLE OF NOTICE TO BE PUBLISHED
FOR INTERNATIONAL POWER LINES NOT EXCEEDING
AN OPERATING VOLTAGE OF 50 KILOVOLTS**

ALPHA ELECTRIC

**Application for Authorization to Construct and Operate
an International Power Line**

Canada Gazette Part I

15 February 1993

Alpha Electric of 720 - 12th Avenue S.W., Calgary, Alberta, T2R 1J3, hereby gives notice that it has, under Part III.1 of the *National Energy Board Act*, filed an application dated 15 February 1993, with the National Energy Board for authorization to construct and operate a 25 000 volt single phase international power line. The line would extend a distance of approximately 2 km southward from the (X) substation, located in (Location) in Canada, to the northern perimeter of the town of (Location), then southwest a further 1 km to a point on the international boundary located at (Location).

Written submissions in respect of the application shall be filed with the Secretary, National Energy Board, 311 - Sixth Avenue, Calgary, Alberta, T2P 3H2, facsimile: (403)292-5503, and with Alpha Electric by 17 March 1993 (i.e. 30 days after the date of publication of this notice).

Any answer to such submissions that the Applicant wishes to present shall be filed with the Secretary of the Board and served on the party that filed the submission by (insert a date 15 days after the above date, i.e. 1 April 1993).

Any reply that parties wish to present in response to the Applicant shall be filed with the Secretary of the Board and served on the Applicant by (insert a date 10 days after the above date, i.e. 11 April 1993).

REGULATIONS FOR CARRYING INTO EFFECT THE PROVISIONS OF THE
NATIONAL ENERGY BOARD ACT RESPECTING INTERNATIONAL POWER
LINES AND ELECTRICITY EXPORTS

Short Title

1. These Regulations may be cited as the National Energy Board Electricity Regulations.

Interpretation

2. In these Regulations,

"Act" means the National Energy Board Act; (Loi)

"adjustment transfer" means a power or energy transfer for purposes such as to adjust energy account balances, to compensate for services rendered, to deliver output entitlements, or to deliver upstream or downstream benefits; (transfert en vue d'une correction)

"border accommodation transfer" means a power or energy transfer for purposes of providing electricity service to a customer in a foreign country who lacks ready access to services from an electric utility of that country; (transfert en vue de service frontalier)

"carrier transfer" means a transfer of power or energy wheeled from one electrical utility through circuits of another electrical utility that acts as a carrier for delivery to a third party or to the originating utility; (transfert relatif au transport)

"certificate" means a certificate under Part III.1 of the Act; (certificat)

"circulating power flow" means an unscheduled flow of electricity that occurs whenever loop circuits are formed by multiple transmission lines; (débit de puissance en circuit bouclé)

"energy" means energy in the form of electricity, expressed in units of watt hours or decimal multiples or sub-multiples of watt hours; (énergie)

"equichange transfer" means an interchange of equal quantities of power or energy within a stated period; (transfert d'équivalents)

"firm energy" means energy intended to be available at all specified times during a period covered by an agreement respecting the sale thereof; (énergie garantie);

"firm power" means power or power-production capacity intended to be available at all specified times during a period covered by an agreement respecting the sale thereof; (puissance garantie)

"interruptible energy" means energy made available under an agreement that permits curtailment or cessation of delivery at the option of the supplier; (énergie interruptible)

"interruptible power" means power made available under an agreement that permits curtailment or cessation of availability at the option of the supplier; (puissance interruptible)

"licence" means a licence under Division II of Part VI of the Act; (licence)

"notice" means a notice of the application published by the applicant in accordance with section 58.12 of Part III.1 of the Act or section 119.04 of Division II of Part VI of the Act; (avis)

"power" means the rate of transferring energy, expressed in units of watts or decimal multiples or sub-multiples of watts; (puissance)

"power transfer capability" means the amount of power that can be transferred from the circuits of one electric utility system to another while meeting reliability criteria for the transmission system; (capacité de transfert de puissance)

"sale transfer" means a transfer of power and energy under a contract of sale; (transfert en vue de la vente)

"storage transfer" means an energy transfer banked for the time being in the form of water in reservoir space of another electrical utility, in the expectation that equivalent energy will be returned at a later time. (transfert en vue de l'emmagasinage)

Information to be Furnished by Applicants for Authorization to Construct and Operate International Power Lines

3. Every applicant for an authorization to construct and operate an international power line, not exceeding an operating voltage of fifty kilovolts, shall furnish to the Board, unless the Board is of the opinion that such information is not necessary to dispose of the application, the following information:

(a) the name, address, telephone number and other telecommunication numbers of the applicant, or of the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;

(b) the name and address of the owner and of the operator of the international power line, if different from the applicant;

(c) a map, at a scale sufficient to locate and identify all relevant features, showing

(i) all terminal points, the route, the international boundary crossover point, and the distance in kilometers from the international boundary crossover point to each terminal point of the international power line,

(ii) cities, towns, and villages, rivers, major roads, railways and navigable waters through, under or across which the line is to pass, and

(iii) the power line outside Canada that at the crossover point is connected to the international power line and hereafter is referred to as "the power line outside Canada";

(d) a description from which the international boundary crossover point can be accurately determined on the ground;

(e) the name and address of the owner and the operator of the power line outside Canada;

(f) a brief description of the proposed line, setting forth the voltage level and the maximum power transfer capability;

(g) a copy of the agreement, if any, between the applicant and the owner or the operator of the power line outside Canada, dealing with the financing, construction, and operation of the international power line and the power line outside Canada;

(h) a description of the approvals that have been obtained or are expected to be obtained from all of the provinces through which the line will pass; and

(i) a description of the status of the approval process for the power line outside of Canada.

4. Every applicant for an authorization to construct and operate an international power line, exceeding an operating voltage of fifty kilovolts, shall furnish to the Board, unless the Board is of the opinion that such information is not necessary to dispose of the application, the following information:

(a) the name, address, telephone number and other telecommunication numbers of the applicant, or of the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;

(b) a brief description of the applicant, including a description of the applicant's power system and a copy of the applicant's annual report;

(c) the name and address of the owner and of the operator of the international power line, if different from the applicant;

(d) a map, at a scale sufficient to locate and identify all relevant features, showing

(i) all terminal points, the route, the international boundary crossover point, and the distance in kilometers from the international boundary crossover point to each terminal point of the international power line,

(ii) cities, towns, and villages, rivers, major roads, railways and navigable waters through, under or across which the line is to pass, and

(iii) the power line outside Canada that at the crossover point is connected to the international power line and hereafter is referred to as "the power line outside Canada";

(e) a description from which the international boundary crossover point can be accurately determined on the ground;

- (f) the name and address of the owner and the operator of the power line outside Canada;
- (g) a copy of the annual report of the owner and the operator of the power line outside Canada;
- (h) with respect to each circuit and terminal facility of the international power line, and of the power line outside Canada
 - (i) a brief engineering description,
 - (ii) a single-line diagram,
 - (iii) the design capabilities for sustained transmission of power under winter and summer conditions, and
 - (iv) the criteria that underlie the stated capabilities;
- (i) the power transfer capabilities between the applicant's power system and the power system outside Canada to which power is to be delivered, before and after the addition of the international power line, stating the criteria that underlie the stated capabilities;
- (j) a copy of:
 - (i) each interconnection or transaction agreement relating to the construction of the international power line, and
 - (ii) any other agreement between the applicant and the owner or the operator of the power line outside Canada, dealing with the financing, construction, and operation of the international power line and the power line outside Canada;
- (k) details regarding the provincial authorization requirements that are to be satisfied;
- (l) a description of the approvals that have been obtained or are expected to be obtained from all the provinces through which the line will pass;
- (m) a description of the relevant provincial review procedures including
 - (i) a description of the review process applicable to each provincial approval that has been obtained or is expected to be obtained,
 - (ii) details regarding any public consultation provided for under each review process described in subparagraph (i),
 - (iii) a schedule for each review process described in subparagraph (i); and
- (n) an assessment, which may consist in whole or in part of reports prepared for other regulatory authorities, of the probable environmental impact of the international power line, and a statement of the proposed measures to mitigate the environmental impact of the line, including terminal facilities;
- (o) evidence to demonstrate that the proposal does not contravene relevant federal environmental standards or guidelines;

- (p) a description of any negative impacts that the proposal might have outside of the sponsoring province or provinces.
- (q) a schedule showing the projected dates for
 - (i) each approval and authorization respecting the international power line, including terminal facilities, and
 - (ii) the start and completion of construction of the international power line and the power line outside of Canada;
- (r) a statement indicating whether or not the proposed power line is supported by all of the provinces through which it will pass; and
- (s) a description of the status of the approval process for the power line outside of Canada.

Terms and Conditions of Certificates and Permits for International Power Lines

5. Where, pursuant to section 58.11 of the Act, the Board issues a permit authorizing the construction and operation of an international power line, the Board may attach to the permit terms and conditions respecting the following matters:

- (a) the owner and operator of the facilities;
- (b) the location of the facilities;
- (c) the electrical and physical characteristics of the facilities;
- (d) policies, practices, and procedures related to the construction and operation of such facilities and related to the protection of the environment affected by the facilities;
- (e) the filing requirements related to monitoring the construction, operation, and environmental impacts of the facilities;
- (f) requirements for the prior approval of any change that may be required to the facilities;
- (g) circumstances that would cause the revocation of the permit; and
- (h) requirements relating to possible reliability effects of the proposed facilities.

6. Every certificate for the construction and operation of an international power line is subject to such terms and conditions as the Board may prescribe and, without restricting the generality of the foregoing, is subject to every statement set out by the Board in the certificate respecting the matters listed in section 5 of these Regulations.

7. The election that an applicant for or holder of a permit or certificate may file with the Board pursuant to section 58.23 of the Act shall be in the form set out in the schedule.

Information to be Furnished by Applicants for Authorization to Export Electricity

8. Every applicant for an authorization for a border accommodation transfer shall furnish to the Board, unless the Board is of the opinion that such information is not necessary to dispose of the application, the following information:

(a) the name, address, telephone number and other telecommunication numbers of the applicant, or the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;

(b) a statement setting forth

(i) the estimated maximum firm power export for each year in the period for which the authorization is sought,

(ii) the estimated maximum monthly and annual quantities of firm energy exports for each year in the period for which the authorization is sought; and

(c) a copy of the electricity sale contract covering the proposed exportation of electricity;

(d) in cases in which the application is not related to a specific export contract, a copy of each interconnection or exchange agreement covering the contractual arrangements under which the proposed exportation would take place;

(e) a brief description of the international power line over which the applicant proposes to export electricity, setting forth

(i) the number of the certificate or permit issued by the Board,

(ii) the name of the holder of the certificate or permit,

(iii) the name of the owner of the power line outside Canada that at the boundary crossing is connected to the international power line, and

(iv) the voltage level of the international power line;

(f) the name, address, and brief description of each person or agency to be supplied outside Canada and a statement of the load to be supplied to each;

(g) a description of the provincial approvals that have been obtained or are expected to be obtained; and

(h) a description of the status of the process of obtaining approvals related to the importation of electricity into the country to which it is to be exported.

9. The information required to be furnished by all other applicants for authorizations to export electricity shall, unless the Board is of the opinion that such information is not necessary to dispose of the application, include:

(a) the name, address, telephone number and other telecommunication numbers of the applicant, or of the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;

(b) a brief description of the applicant, including a description of the applicant's power system, a copy of the applicant's latest annual report, and the applicant's most recent publicly available generation or development plan;

(c) in the case of an export sale transfer, a statement setting forth

(i) the estimated maximum firm power export for each year in the period for which the authorization is sought,

(ii) the estimated maximum combined firm and interruptible power exports for each year in the period for which the authorization is sought,

(iii) the estimated maximum monthly and annual quantities of firm energy exports for each year in the period for which the authorization is sought,

(iv) the estimated maximum annual quantities of interruptible energy exports for each year in the period for which the authorization is sought, and

(v) information respecting any import sale transfers corresponding to the information requested in subparagraphs (i) to (iv),

(d) in the case of an equichange, storage, adjustment or carrier transfer or circulating power flow, a statement of the annual quantities of energy for exportation and for importation for each type of transfer for the period for which the authorization is sought;

(e) a copy of each bulk electricity sale agreement covering the proposed exportation of electricity;

(f) in cases in which the application is not related to a specific export contract, a copy of each interconnection or exchange agreement covering the contractual arrangements under which the proposed exportation would take place;

(g) a list of the international power lines over which the applicant proposes to export or import electricity, setting forth in respect of each line

(i) the number of the certificate or permit issued by the Board,

(ii) the name of the holder of the certificate or permit,

(iii) the name of the owner of the power line outside Canada that at the boundary crossing is connected to the international power line,

(iv) the voltage level and operating designation of each circuit,

(v) the maximum power transfer capability of each circuit giving the basis for this limit, and

(vi) the total simultaneous power transfer capability under normal operating conditions for all the international power lines listed in this paragraph;

- (h) the name, address, and brief description of each person or agency to be supplied outside Canada and a statement of the load to be supplied to each;
- (i) a copy of the latest annual report of each person or agency to be supplied outside Canada;
- (j) a description of the status of the process of obtaining approvals related to the importation of electricity into the country to which it is to be exported; and
- (k) details regarding the provincial authorization requirements that are to be satisfied;
- (l) a description of the provincial approvals that have been obtained or are expected to be obtained;
- (m) a description of the relevant provincial review procedures including
 - (i) a description of the review process applicable to each provincial approval that has been obtained or is expected to be obtained,
 - (ii) details regarding any public consultation provided for under each review process described in subparagraph (i), and
 - (iii) a schedule for each review process described in subparagraph (i);
- (n) an assessment, which may consist in whole or in part of reports prepared for other regulatory authorities, of the probable environmental impact of the proposed exportation and a statement of any measures that will be taken to mitigate the environmental impact;
- (o) evidence to demonstrate that the proposed exportation does not contravene relevant federal environmental standards or guidelines;
- (p) a description of any negative impacts that the proposed exportation might have outside of the sponsoring province or provinces; and
- (q) evidence to demonstrate that
 - (i) those who have declared an interest in buying electricity for consumption in Canada have been informed by the applicant of the quantities and classes of service available for sale, and
 - (ii) those who, within a reasonable time after being so informed, having demonstrated an intention to buy electricity for consumption in Canada, have been given by the applicant an opportunity to purchase electricity on terms and conditions as favourable as the terms and conditions specified in the application.

Terms and Conditions of Licences and Permits for the Export of Electricity

10. Every licence or permit for the export of electricity shall state the quantities of power and energy in terms of kilowatts and kilowatt hours, or multiples thereof, that may be exported thereunder, the quantities if any that may be imported as an offset to the export, and the maximum quantities for any daily, monthly, annual or other appropriate period with respect to both exports and imports.

11. Where, pursuant to section 119.03 of the Act, the Board issues a permit authorizing the exportation of electricity, the Board may attach to the permit terms and conditions respecting the following matters:

- (a) the duration of the permit;
- (b) the maximum quantities of power and energy authorized;
- (c) the classes of power or energy transfers authorized;
- (d) the firmness or interruptibility of each class of transfer;
- (e) conditions under which the permit holder must curtail or interrupt the export;
- (f) the international power lines over which transfers are authorized;
- (g) requirements relating to the measurement of power and energy for the purposes of the permit;
- (h) any changes in circumstances about which the permit holder is required to inform the Board;
- (i) requirements relating to the filing of any amendments that may be made to an export agreement;
- (j) requirements relating to the protection of the environment
- (k) requirements relating to the possible reliability effects of the export; and
- (l) requirements relating to the fair market access to be provided by the permit holder to potential Canadian buyers.

12. Every licence is subject to such terms and conditions as the Board may prescribe and, without restricting the generality of the foregoing, is subject to every statement set out by the Board in the licence respecting the matters listed in section 11 of these Regulations.

Units of Measurement

13. (1) For the purposes of these Regulations, power and energy shall be measured in accordance with the Electricity and Gas Inspection Act.

(2) For the purpose of these Regulations,

(a) a unit of

- (i) power shall be 1 watt or any decimal multiple or sub-multiple thereof, and
- (ii) energy shall be 1 watt hour or any decimal multiple or sub-multiple thereof,

where the multiples or sub-multiples are those accepted for use in the International System of Units (SI);

(b) 1 watt hour shall be the energy produced from a power source of 1 watt during a period of 3600 seconds; and

(c) 1 watt and 1 second have the same meanings as in Schedule I to the Weights and Measures Act.

Inspection

14. (1) A member of the Board or any person authorized by the Board in writing for the purpose may, in connection with any licence or permit issued under Division II of Part VI of the Act or for any other reason relating to the administration or enforcement of the Act or these Regulations, at any reasonable time,

(a) enter any premises in which electricity is generated or produced for export from Canada or is exported from Canada;

(b) inspect any plant, equipment, instruments or devices used for or in connection with the exportation of electricity and make such reasonable tests thereon as he deems necessary; or

(c) inspect any books, records or accounts used for or in connection with the exportation of electricity;

(2) A person authorized by the Board to exercise any of the powers referred to in subsection (1) shall, upon demand made to him at any time while he is exercising any such powers, produce his authority in writing from the Board in such behalf.

(3) Any person who is the operator or who is in charge of any of the places, equipment, plant or records mentioned in subsection (1) shall permit or assist any member of the Board or any person authorized by the Board in the exercise of the powers conferred by subsection (1).

SCHEDULE

(s.7)

Form 1

To: The Secretary
National Energy Board
473 Albert Street
Ottawa, Ontario
K1A 0E5

(Date)

This constitutes the election of _____ under section
58.23 of the _____
National Energy Board Act. print name

The international power line in respect of which the provisions of the National
Energy Board Act referred to in section 58.27 of that Act and not the laws of the province
shall apply, may be described as follows: *(give a brief description of the power line).*

From: _____
Name

Address

City, Prov., Postal Code

Signature

National Energy Board



Office national de l'énergie

File No.: 3500-4
4 March 1993

TO: ALL COMPANIES UNDER THE BOARD'S JURISDICTION AND OTHER
INTERESTED PARTIES

Re: **Memorandum of Guidance Concerning**
Early Public Notification of Proposed Applications

The subject Memorandum of Guidance is an update of the original one dated 28 June 1990 and replaces it.

The changes to the Memorandum of Guidance are a result of the Board's review of the Memorandum of Guidance concerning Early Public Notification following the decision from the Federal Court of Appeal in the case of *Attorney General of Québec v. National Energy Board* ([1991] 3F.C.443) ("the *Hydro Québec* decision"). In that decision, the Court held that the Board's jurisdiction over exports (in that case, electricity exports) did not extend to facilities for the production of goods for export, and that in considering an application for leave to export, the Board cannot have regard to anything but the export of electricity. As a result of the *Hydro Québec* decision, the Board has concluded that it will not be necessary to undertake an Early Public Notification Process for export applications under Part VI of the National Energy Board Act.

The intent of the attached Memorandum of Guidance is to provide for public input during the planning and development stage of projects which may be incorporated into applications to the Board. Providing early public notification of proposed facilities applications under Part III of the NEB Act, and timely public input contributes to the improvement of the Board's regulatory process. The Board expects all parties to comply with the requirements of the Memorandum of Guidance.

For further information, please contact the undersigned at (403) 299-2711.

Yours truly,

J.S. Richardson
Secretary

Attach.

National Energy Board



Office national de l'énergie

File No.: 3500-4

28 June 1990

Revised the 4 March 1993

TO: ALL COMPANIES UNDER THE BOARD'S JURISDICTION
AND OTHER INTERESTED PARTIES

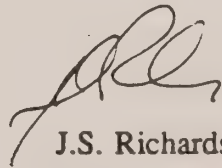
MEMORANDUM OF GUIDANCE

Re: Public Notification of Proposed Facilities Applications for Issuance
of a Certificate, an Order, or a Permit Pursuant to Sections 52, 58, 58.11 and
58.16 of the *National Energy Board Act* ("the Act")

The Board has set out the following directions to be implemented by applicants for authorizations pursuant to Sections 52, 58, 58.11 and 58.16 of the Act:

1. Unless otherwise authorized by the Board, prior to the filing of an application, an applicant shall:
 - (A) implement a public information program to explain the proposal under review, its potential environmental and social effects, and to allow an opportunity for public comment. The information to be provided shall include as a minimum a map to identify the project location and sufficient information that the potential environmental and social effects of the proposal can be identified;
 - (B) provide interested parties adequate time to comment on the proposal; and
 - (C) respond to any relevant questions that may be raised by an interested party.
2. When filing its application with the Board, an applicant shall:
 - (A) provide a description of the nature of the public information program, the means and date of public notification, and the date and location of meetings, if any, and shall include a summary of public comments received and concerns expressed regarding the proposal's potential environmental or social effects; and

- (B) provide such additional information on the public information program as may be requested by the Board.
3. If the applicant determines that the potential environmental or social effects of the proposal are insignificant, the applicant may request exemption from the requirements of Sections 1 and 2.
 4. Sections 1, 2 and 3 shall not apply with respect to those facilities applications which relate to the following:
 - (A) work contained within the confines of station property or other property either owned or leased by the applicant, other than facilities:
 - (i) related to the storage or disposal of toxic substances,
 - (ii) that will result in increased noise emissions, or
 - (iii) that will result in increased emissions of air contaminants;
 - (B) additional acquisitions required to support the day-to-day operations of a pipeline or international power line, e.g. standby plant, or materials and supplies;
 - (C) work performed on the right-of-way which relates to routine maintenance, emergency repairs and installations, and contingency projects; and
 - (D) the construction and operation of international power lines not exceeding an operating voltage of fifty kilovolts and for which no significant environmental or social concerns are identified.



J.S. Richardson
Secretary

**GUIDELINES ON THE ENVIRONMENTAL INFORMATION REQUIRED WITH
APPLICATIONS FOR AUTHORIZATIONS FOR INTERNATIONAL POWER LINES**

1. General Requirement

When an election is filed by an applicant or by a holder of a permit or certificate pursuant to Section 58.23 of the Act, the applicant or the holder of a permit or certificate is required to furnish an assessment of the probable environmental impact of the power line. Although the details of such an assessment should be commensurate with the magnitude and complexity of the expected impact, this guideline describes the type of information that should be provided.

2. Application for Exemption

Applicants for authorization for lines of voltage not exceeding 50 kV, unless otherwise required by the Board, are exempted from these requirements.

3. Submission of Studies and Other Applications

With the environmental assessment, the applicant shall submit copies of

- a) any studies that have been made on the environmental impact of the proposed line or any part thereof, and
- b) any applications to and decisions by public bodies relating to the line.

4. The Existing Environment

The applicant shall provide:

- a) a map or maps of scale at least 1:50,000, based on either maps of the National Topographic System or on aerial photographs, to show the proposed right-of-way, and for a width of at least one kilometre on each side of the power line to portray the following:
 - i. the surface and near surface geology;
 - ii. soil types, classified in the Canadian system;
 - iii. any recognized geological or hydrological hazards (such as landslides, mudflows, floods, earthquakes, etc.);
 - iv. the habitats of terrestrial animal life, wetland furbearers and waterfowl, of recognized importance;
 - v. the habitats of rare or endangered plant species;
 - vi. the spawning beds of fish species of recognized importance;
 - vii. the locations of public recreational areas;

- viii. special areas such as national and historic parks, provincial parks, historic and archaeological sites, ecological reserves, conservation areas, Indian reserves, etc;
 - ix. existing land use;
 - x. water supply intakes;
 - xi. existing and proposed transmission towers and other power facilities; and
 - xii. any proposed construction roads and camps; and
- b) a description of the environmental components listed in subsection (a).

5. Environmental Standards

The applicant shall state what environmental standards, specifications or guidelines, if any, would be followed in the planning, design, construction and operation of the line.

6. The Environmental Impact

The applicant shall state:

- a) what width of right-of-way is proposed, and why this width was selected;
- b) what changes the construction and operation of the line and of any associated temporary or permanent roads would cause to:
 - i. land drainage and erosion;
 - ii. vegetation;
 - iii. wildlife, especially rare or endangered species;
 - iv. fish spawning and productivity;
 - v. agriculture, recreation and other human activities;
 - vi. water supplies; and
 - vii. land valuesshowing in each case what methods would be used to minimize undesirable effects, and why such effects should not be further reduced;
- c) what efforts would be made to ensure that the right-of-way:
 - i. avoids scenic, historic, residential and recreational areas; and
 - ii. minimizes conflict with any present or approved future land use;
- d) what efforts would be made to minimize the marring of the landscape by the right-of-way, to improve the appearance of the line, to screen it from highways and

other areas of public view, and to blend it into the environment;

- e) what plans have been made for surface restoration after construction, and for the disposal of construction excavation debris and wastes;
- f) what pesticides or herbicides would be used in the construction and maintenance of the right-of-way, including quantities, methods of application, and effects;
- g) what supervision and inspection of environmental effects and protection would be provided:
 - i. during construction; and
 - ii. during subsequent operation;
- h) what steps would be taken to minimize radio and television interference, and what levels would be expected in decibels above one microvolt per metre at the edge of the right-of-way under fair and foul weather conditions;
- i) for transmission voltage above 240 kV, what levels of
 - i. audible noise in decibels, and
 - ii. ozone concentration in parts per billion would be expected at ground level at the edge of the right-of-way under fair and foul weather conditions;
- j) for transmission voltages above 240kV, what values of electric field gradient in kilovolts per metre would be expected at mid-span
 - i. directly under the outermost conductor, and
 - ii. at the edge of the right-of-way;and what measures, if any, would be taken to protect people or livestock contacting vehicles or metallic structures under the line from electric shock resulting from induced voltages;
- k) for any substation facilities forming part of the international power line, the audible noise in decibels that would be caused at the property line, a description of the public exposure to such noise, and the steps that would be taken to minimize the noise, and;
- l) the potential for adverse effects on human health of the electric and magnetic fields produced by the proposed transmission line and the steps that would be taken to minimize those effects.

7. **Alternatives**

The applicant shall state what consideration was given to alternatives such as:

- i. different routes,
- ii. replacing or upgrading existing lines, or
- iii. multiple-use right-of-way with other utilities and why such alternatives were rejected.

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National Energy Board



Office national de l'énergie

File No: 8000-A000-13

18 August 1993

To: Interested Parties

Subject: Inquiry into Licensing of Long-Term Exports of Oil Sands Production

In response to a request from the Honourable Bobbie Sparrow, Minister of Energy, Mines and Resources, the National Energy Board (the "Board") will be conducting an inquiry to review and report on the regulatory requirements regarding long-term exports of oil production from oil sands developments. The oil sands differ from conventional crude oil in that the oil has been biodegraded into a more viscous product, generally referred to as bitumen. This bitumen resource which is being considered in this inquiry is essentially contained in three large deposits in Alberta - the Athabasca, Cold Lake and Peace River oil sands deposits as defined by the Alberta Energy Resources Conservation Board - but would be expanded to include future oil sands discoveries in Canada.

The Board is seeking to obtain the views of a broad range of interested parties on the areas to be covered by the inquiry and, in this connection, the Board issued a news release on 18 August 1993 (attached).

The Board is interested in your views on:

- the appropriateness of the current regulatory regime insofar as it applies to oil produced from oil sands developments;
- the process that should be required for an investor to obtain a long-term export licence from the Board for the export of oil from oil sands production;
- the feasibility of different regulatory treatment for oil processed from the oil sands than for conventional oil;
- if a different regulatory regime for oil sands were judged appropriate, whether this should apply to new projects only, or to a particular class of projects; and
- any suggestions for changes to the existing legislation and regulations to clarify the process and/or the basis on which regulatory decisions are to be made.

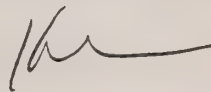
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To facilitate the preparation of submissions, the Board has prepared a discussion paper which outlines the nature of the oil sands resource; the status of the current regulatory regime under the NEB Act and the Board's Regulations governing long-term exports of oil; and options for consideration regarding the regulation of such exports. Parties are invited to comment on the attached paper and, in particular, to comment on the options which are identified.

Those wishing to comment should provide 20 copies of their submission to the Board by 30 September 1993. Copies will be available for viewing at the Board's library in Calgary and at the Energy, Mines, and Resources library in Ottawa.

Please indicate in your submission if you are interested in receiving the submissions of other parties. The Board will make arrangements to distribute copies.

Yours truly,


for J.S. Richardson

Attachments: NEB news release with Minister's letter; and
NEB Discussion paper.

Inquiry into Licensing of Long-Term Exports of Oil Sands Petroleum Production

Discussion Paper

This paper outlines factors relevant to a consideration of the appropriate regulatory regime for exports of oil derived from the exploitation of oil sands. The first section outlines the nature and size of Canadian oil sands resources and production in relation to conventional crude oil resources. Section II provides a brief review of the recent history of oil export regulation and Section III provides a description of the legislated mandate of the National Energy Board under the *National Energy Board Act* ("the Act") and its *Part VI Regulations* with respect to exports of oil. Section IV discusses what an appropriate regulatory regime might be for export of production from the oil sands, having regard to both the unique characteristics of the oil sands and the regulatory regime the Board has adopted for long-term exports of natural gas and electricity. This section concludes by setting out some possible options for the regulatory treatment of the long-term export of production from the oil sands. Finally, Section V of the paper sets out the issues which the Board requests parties to address in their submissions.

I. Canada's Oil Sands Resources, Production and Disposition

Canada's oil resources consist of conventional crude oil and unconventional crude oil which is contained in the oil sands. The oil sands resource differs from the conventional crude oil resource in that the oil has been biodegraded into a more viscous product, generally referred to as bitumen. The Board's resource estimates for bitumen include bitumen that occurs in sands or in carbonates in the Athabasca, Peace River and Cold Lake deposits in Alberta and are based on estimates by the Alberta Energy Resources Conservation Board. However, the regulatory changes considered in this inquiry are not restricted to discovered bitumen, but will also apply to future discoveries in all the jurisdictions of Canada.

A characteristic of conventional crude oil is that it will generally flow at a commercial rate into a well bore¹. Unconventional crude, in contrast, is in too viscous a state to flow into a well bore and requires the addition of a substantial amount of external energy if it is to be produced at a commercial rate².

1 Crude oil generally is considered to be conventional crude oil if it can be produced technically and economically through a well using normal production practices and without altering the natural viscous state of the oil. However, the more viscous crude bitumen, which has a viscosity in excess of 10 000 MPa.s, is not a conventional crude oil even if it can be produced at a commercial rate through a well using a progressive cavity pump. The Board categorizes conventional crude oil as light or heavy crude oil, based mainly on the refining processes required to produce useful products. The Board's heavy crude oil category includes both heavy crudes and crudes which are classified by some others as medium.

2 Crude oil is considered unconventional if it cannot be classified as conventional. The unconventional crude oil generally referred to as oil sands is normally referred to as crude bitumen in the technical literature. The Board defines bitumen as a naturally occurring viscous mixture, mainly of hydrocarbons heavier than pentanes, that has a viscosity greater than 10 000 MPa.s measured at original temperature in the deposit and atmospheric pressure. Crude bitumen may contain sulphur and non hydrocarbon compounds and in its

Table 1 shows estimates of the oil sands and the conventional oil resource base in the Western Canada Sedimentary Basin. Although the oil sands resource base is many times larger than that of conventional oil, its commercial development did not start until 1967 and has been slow relative to the conventional resource. This is because development of the oil sands resource base requires the use of new and relatively expensive technology.

Table 1
Crude Oil and Bitumen Resource Estimates
at the Year End 1989
(millions of cubic metres)

	Discovered Resources				Undiscovered Resources	Ultimate Recoverable Resource Potential	Resource Base
	Cumulative Production	Remaining Established Reserves	Other Discovered Resources	Total			
Conventional Crude Oil							
Light							
Producing Areas	1 830	487	298	2 614	578	3 192	10 499
Non-Producing areas	0	84	497	581	2 833	3 414	11 381
Subtotal-Light	1 830	571	795	3 195	3 411	6 606	21 880
Heavy							
Producing Areas	353	134	320	808	270	1 078	5 911
Total - Conventional	2 183	705	1 115	4 003	3 681	7 684	27 791
Bitumen							
Mining Projects	162	482	9 356	10 000	0	10 000	24 000
In Situ Projects	38	60	38 902	39 000	0	39 000	376 000
Total-Bitumen	200	542	48 258	49 000	0	49 000	400 000

Source:

Table 7-1, June 1991, National Energy Board, Supply and Demand Report

natural state is generally not recoverable at a commercial rate through a well.

Production of oil from oil sands occurs using two different methods - mining and in situ.

Surface mineable

Roughly one-fifth of the discovered recoverable resource is found close to the earth's surface so that the deposit can be surface mined and treated in plants to remove the oil from the sands. Bitumen from the existing mining operations is upgraded to light crude oil quality (synthetic crude oil) on site for shipment to a refinery. Some 38 000 cubic metres per day of synthetic crude oil are currently being produced from the oil sands in this manner at the Syncrude and Suncor plants near Fort McMurray, Alberta. Synthetic crude oil can be attractive to certain refineries as it leaves little residual oil after fractionation. On the other hand, the aromatics content of synthetic oil can detract from its attractiveness.

In 1992 some 28 000 cubic metres per day of synthetic crude oil production was refined in Canada. The remaining 10 000 cubic metres per day was exported via pipeline, primarily to refineries in the northern tier of the United States.

In situ recoverable

The other four-fifths of the discovered recoverable oil sands resource is too deep to be mined and the oil must be produced by "in situ" techniques in which the oil is usually mobilized by heating and pumped to the surface. There are currently 11 commercial in situ projects in operation in Alberta which, together with 14 experimental pilot projects and 13 primary crude bitumen schemes, produce 23 000 cubic metres per day of bitumen. After blending with condensate, the product is shipped by pipeline to Canadian refineries, to the Bi-provincial Upgrader at Lloydminster, Saskatchewan and to export markets.

With the exception of the Shell Canada refinery at Scotford, Alberta and the Sunoco refinery at Sarnia, Ontario, which are equipped to use synthetic crude oil, existing Canadian refineries are not equipped to use large volumes either of synthetic crude or heavy crude oil.

Given the complexity of the process for recovering bitumen from oil sands, the costs of production are high relative to the costs of producing conventional oil. The value of non-upgraded bitumen is substantially less than that of conventional light crude oil because the bitumen must be subjected to complex and costly treatment to create a product equivalent to conventional light crude oil. If the bitumen is not upgraded, expensive refinery processes, only available at some refineries, restrict its marketability. Thus, significant expansion of bitumen production will require either a higher crude oil price than currently prevails or improved technology or some combination of the two.

II. The Recent History of Oil Export Regulation

Canada had a system of administered oil prices and export controls from 1973 to 1985. During that period, all oil exporters required a licence issued by the Board, regardless of the term of the sales contract. A hearing was not required for licences of one year or less.

These export licences imposed volume and price restrictions on the terms of the associated export contracts and were only issued after the Board determined that the oil to be exported was surplus to Canada's reasonably foreseeable requirements. In this connection, the Board reviewed the available supply of oil over the proposed term of the export, and the requirements of Canadian refiners for feedstock and/or demand for petroleum products. The difference, if any, was available for export. The price to be charged for the export had to be just and reasonable in relation to the public interest. Export charges were levied to make up the difference between controlled domestic prices and those available in export markets.

As oil is not normally traded on a long-term basis, the Board did not receive any applications for long-term licences to export crude oil during this period of regulation. However, a few long-term licences were issued for the export of heavy fuel oil from Ontario.

In March 1985, the governments of Canada and the oil and gas producing provinces of Saskatchewan, Alberta and British Columbia signed the Western Accord. This Accord deregulated oil prices and eliminated export controls on oil effective 1 June 1985.

III. Regulatory Requirements imposed by the *Act* and *Part VI Regulations*

Oil is defined in section 2 of the *Act* as "any hydrocarbon or mixture of hydrocarbons other than gas." That definition includes oil produced from oil sands. Part VI of the *Act* provides for the regulation of imports¹ or exports of oil into or from Canada by the Board. The essence of regulatory control is set out in sections 116 to 118 of Part VI of the *Act*:

- 116. Except as otherwise authorized by or under the regulations, no person shall export or import any oil or gas except under and in accordance with a licence issued under this Part.
- 117. (1) Subject to the regulations, the Board may, on such terms and conditions as it may impose, issue licences for the exportation or importation of oil or gas.
(2) Every licence is subject to the condition that the provisions of this Act and the regulations in force at the date of issue of the licence and as subsequently enacted, made or amended, as well as every order made under the authority of this Act, will be complied with.
- 118. On an application for a licence, the Board shall have regard to all considerations that appear to it to be relevant and shall
 - (a) satisfy itself that the quantity of oil or gas to be exported does not exceed the surplus remaining after due allowance has been made for the reasonably foreseeable requirements for use in Canada having regard to the trends in the discovery of oil or gas in Canada; and

¹ Pursuant to section 24(a) of the *Part VI Regulations*, oil imports are exempt from the requirement to obtain a licence or an order from the Board.

(b) [Repealed, 1990, c. 7, s. 32]

(c) where oil or gas is to be exported and subsequently imported or where oil or gas is to be imported, have regard to the equitable distribution of oil or gas, as the case may be, in Canada.

The *Act* does not require the Board to hold public hearings to dispose of oil export licence applications. However, in addition to the provisions of the *Act*, regulations known as the National Energy Board *Part VI Regulations* have been created to govern the procedures of the Board in its consideration of applications to export oil. A key provision in those regulations is section 28, subsection (1), which states:

28. (1) Where the Board has held a public hearing and has obtained the approval referred to in section 10¹, it may issue a licence authorizing any person
- (a) to export heavy crude oil for a period greater than two years and not exceeding 25 years; and
 - (b) to export oil other than heavy crude oil, for a period greater than one year but not exceeding 25 years.

Notwithstanding the absence of a requirement in the *Act* to convene a public hearing to consider oil licence applications, it is the Board's view that the legal effect of this subsection of the *Part VI Regulations* is to require that a hearing be held.

Subsection 28(1) of the *Part VI Regulations* also stipulates that licences for the export of heavy crude oil are required only where the term of the export exceeds two years. For oil other than heavy crude oil, an export licence is required for exports of longer than one year's duration.²

Exports for periods of less than two years in the case of heavy crude oil and one year for oil other than heavy crude oil are authorized by orders issued pursuant to section 26 of the *Part VI Regulations*. A hearing is not required for a short-term export, and these applications are approved expeditiously by the Board.

The Board now issues orders without any price or volume restrictions to registered exporters. The orders authorize the export of heavy crude oils for periods not exceeding two years and of other oils, including petroleum products, for periods not exceeding one year. These short-term orders include a condition that export sales agreements exceeding one month contain a clause relieving the seller of the obligation to export should authorized exports be restricted by

¹ Section 10 of the *Part VI Regulations* requires the consent of the Governor in Council before an export licence issued by the Board can take effect. The practice of the Governor in Council is to issue an Order-in-Council to express its approval of an export licence.

² A licence for a term that is greater than one year may also be issued in order to accommodate an imported oil processing arrangement.

the Government of Canada. However, since all oil trade is conducted on the basis of short-term, month-to-month contracts, exports of oil from Canada are effectively unregulated even though an order is required.

The Board has not been required in the past to assess an application for the long-term export of oil. Consequently, unlike the case for natural gas, the Board has not established the means by which potential applicants for a long-term oil export licence can satisfy the requirements of the *Act*, particularly with respect to section 118. The issue in this inquiry is to determine the appropriate regulatory regime for long-term licence applications to export oil produced from the oil sands and to determine what specific procedures, if any, should be adopted for assessing such applications.

Unlike natural gas and electricity, which are sold both short-term and long-term, oil is generally traded on a short term basis at prevailing market prices. Under these conditions the owner of oil sands production can in the short-term dispose of its oil and direct it to any market outside of Canada. However, investors requiring longer term certainty with respect to their ability to dispose of oil sands production in export markets must obtain a long-term licence as required by sections 116 - 118 of the *Act*.

Finally, it should be noted that the Board's jurisdiction does not encompass the regulation of oil drilling and production within a province as those matters fall within the jurisdiction of the respective provincial governments. Consequently, environmental assessment relating to the production of oil is the responsibility of the appropriate provincial authorities.

IV. Options for a Regulatory Process for Oil Produced from the Oil Sands

As noted in the Minister's letter to the Board, a National Task Force on Oil Sands Strategies is being formed to explore various ways to improve the commercial viability of oil sands production. As part of the Task Force initiative, the Minister has requested the Board's views on "the efficiency/effectiveness of the present regulatory process as it impacts on commercial prospects for oil sands and its ability to attract capital".

The Minister noted that development of the oil sands will require large capital outlays and that oil sands projects will require long lead times from planning to production. The Minister stated that the consequent financial risks "may drive investors to look for greater certainty with the regulatory process, specifically with respect to access to markets outside Canada, than may be sought for conventional production".

Implicit in these statements is the view that investment in an oil sands project is qualitatively different from investment in a conventional oil project. Although investment in conventional oil exploration is risky, this risk can be mitigated by spreading the investment over a large number of projects. Further, if commercial quantities of oil are found, it is not necessary to continue to make large capital outlays over the life of the project.

The lead times and initial capital required for an oil sands project can be much greater than for conventional oil development. The operational success of an oil sands project is highly

uncertain, and this uncertainty cannot be easily mitigated. In addition to the large initial outlay, investors must also be committed to large operational expenditures over an extended time period.

The oil produced from an oil sands project may not have as many market outlets as conventional crude oil because special refinery capabilities are required. Therefore, investors in oil sands projects may have to identify specific markets prior to investment in production facilities and may have to make additional investments in refining facilities.

The nature of an oil sands project is such that the potential operating profit margin, the difference between market price and operating costs, is narrower than for conventional oil projects. In this environment, relatively small increases in operating costs or relatively small decreases in market prices can have a greater impact on potential profits.

The above comments apply to both mining projects and to in situ projects. Although it is true that in situ projects can be undertaken on a smaller scale than mining projects, the investor must also consider making very large investments in upgrading facilities to produce a grade of crude oil similar to the integrated mining projects..

When the above characteristics of oil sands projects are considered, it is understandable that questions should arise as to the appropriate regulatory regime for exports of oil produced from these projects. Investors may be reluctant to make an investment if they perceive that there is a possibility that, having invested in a project, they could at any time be prevented from delivering the product into the market area of their choice.

Considering these factors, it would appear that, from an investor's standpoint, an appropriate regulatory regime would provide for the granting of an unencumbered export licence before significant capital expenditures were incurred. Under such a process, investors who successfully applied for an export licence could proceed with the understanding that they would be able to deliver their product into the markets of their choice over the life of the project. Alternatively, if it were deemed that encouragement of investment were sufficiently important to over-ride any other public interest considerations related to the regulation of exports, it could be argued that it would be appropriate to exempt production from oil sands projects from export regulation.

On the other hand, it could be deemed that there are valid public interest matters associated with the export of oil sands production which should be considered in addition to the interests of investors.

Options

The following describes three potential options for a regulatory regime for applications to export oil produced from the oil sands on a long-term basis:

- 1) Implement a regulatory regime similar to that for natural gas or electricity, along with a Public Interest Determination, either with or without a public hearing requirement.
- 2) Implement a Public Interest Determination process either with or without a public hearing requirement.
- 3) Exempt oil produced from the oil sands from export regulation.

Option 1

Under Option 1, the Board could implement either a procedure modelled along the lines of the Complaints Procedure used for natural gas or a procedure modelled along the lines of the Fair Market Access assessment used for electricity. Under the natural gas model, a public hearing is required. The applicant would be required to file copies of export sales contracts, and potential Canadian buyers would be afforded an opportunity to file a complaint that they were not able to obtain oil on similar terms and conditions, including price, as were available to export customers. The onus of proof would rest with the applicant to prove to the satisfaction of the Board that a licence should be granted.

In a process providing fair market access, as is used to regulate electricity exports, applicants would have to demonstrate that they had provided an opportunity to Canadian buyers to purchase oil produced from the oil sands on similar terms and conditions as were offered to export customers. If the Board were satisfied that such opportunities were provided, it would not be necessary to hold an oral public hearing; i.e. an application could be disposed of on the basis of written submissions. This approach would require an amendment to the *Part VI Regulations* to allow the Board to deal with oil export licence applications without a public hearing. Under this model, the onus of proof would rest with an objector/complainant to demonstrate to the Board's satisfaction why a licence should not be granted.

Under both of these regimes, if the terms and conditions of the export sales contracts were not available at the time of the hearing, the applicant could be required to address potential complaints or offer fair market access at the time it entered into long-term export sales. Further, it is possible that the applicant could be required to address potential complaints at any time during the term of the licence. Therefore, a licence issued under these circumstances would be conditioned and probably would not be unencumbered. For example, in 1987 Gulf, Shell and Esso applied for a long-term licence to export natural gas from the MacKenzie Delta. The Board granted a conditional licence, which provides an opportunity to Canadian natural gas users to intervene and file a complaint when long-term sales contracts are finalized.¹

¹ See National Energy Board Reasons for Decision: GH-10-88, August 1989, Gas Exports.

In either of the above two models, interested parties could also make submissions about any other matter which they believed to be in the public interest and the Board could make a determination as to whether the applied-for licence was in the public interest or whether any conditions should be attached to the licence; i.e. the Board would make a Public Interest Determination.¹

Option 2

Under Option 2, an applicant would be required to present its case as to why it would be in the public interest that it be granted an export licence, having regard to section 118 of the *Act*. Interested parties could intervene and submit arguments for or against the export proposal, or argue that conditions should be attached to any licence, again having regard to section 118 of the *Act*. The Board would not rely on any pre-determined criteria for assessing the merits of the application, and would make a Public Interest Determination on a case-by-case basis. The process could be done by way of a public (oral) hearing or, with an amendment to the *Part VI Regulations*, by way of a written hearing. In either case, the assessment would be held early in the investment cycle so that investors could receive a clear signal prior to incurring significant expenditures.

Option 3

Under option 3, oil produced from the oil sands would be exempted from the necessity of obtaining a long-term export licence. This could be effected by:

- (i) regulations pursuant to section 130 (2) of the *Act*;
- (ii) an amendment to the Board's *Part VI Regulations* to extend the Order period for production from the oil sands from the current one year for synthetic light crude and two years for heavy crude to a longer period, e.g. 15 years; or
- (iii) an amendment to the *Act* exempting oil sands production from regulation.

With respect to option 3(i), section 130(2) of the *Act* states that the "Governor in Council may by regulation exempt any oil or gas of any kind, quality or class thereof or any area or transaction from the operation of all or any of the provisions of this *Act*." Therefore, if deemed appropriate, the Governor in Council could use the powers specified in this section of the *Act* to exempt oil produced from the oil sands from the provisions relating to the export of oil contained in part VI of the *Act*. This section has been relied upon in the past to exempt the export of MTBE (methyl tertiary butyl ether) and methanol from regulation.

Oil which is exported under Board Orders is effectively exempted from export regulation as these Orders are issued expeditiously upon request by applicants. Therefore, option 3(ii) could be used to effectively exempt long-term exports of oil produced from the oil sands from the

¹ See Appendix 1 for a further explanation of the regulatory regimes which are used to assess applications for natural gas and electricity export licences.

export licensing process.¹

Alternatively, under option 3(iii) Parliament could amend the *Act* in such a way as to exempt production from the oil sands from export regulation.

V. Questions to be Addressed by Interested Parties

The Board requests interested parties to file submissions commenting on the following:

1. The appropriateness of the current regulatory regime insofar as it applies to oil produced from oil sands developments.
2. The process that should be required for an investor to obtain a long-term export licence from the National Energy Board for the export of oil from oil sands production.
3. The feasibility of different regulatory treatment for oil processed from the oil sands than from conventional oil.
4. If a different regulatory regime for oil sands were judged appropriate, whether this should apply to new projects only, or to a particular class of projects.
5. Any suggestions for changes to the existing legislation and regulations to clarify the process and/or the basis on which regulatory decisions are to be made.

In addition, parties are invited to comment on the specific options for regulating the export of production from the oil sands that are put forth in this discussion paper.

¹ Board Orders currently contain a condition which requires oil exporters to have a force majeure clause in their sales contracts relieving them of their contractual obligations to deliver oil in the event that the Government of Canada rations oil supplies in Canada. Such a condition would not be appropriate in a licence for the export of production from the oil sands.

Appendix 1

Regulatory Regimes for Natural Gas and Electricity Export Licence Applications

This appendix briefly reviews the regulatory regimes which have been implemented in the past several years to assess applications for long-term export licences for natural gas and electricity.

Natural Gas

In 1987, the Board reviewed the manner by which it assesses applications for long-term export licences for natural gas. In its Reasons for Decision on this matter, the Board stated that:

[T]here are four factors which could impede the market from adequately and fairly meeting Canadian energy requirements in the face of increased export demand.

First, supply and demand may adjust to price changes but with some lag. This lag could occur because it takes time to develop new supplies of gas or alternative energy forms and the capacity to deliver and use them. While there is evidence of flexibility in both supply and demand at the present time, the size of future export demand is not known now; therefore, the adequacy of this flexibility relative to any export demand the market may face requires ongoing regulatory scrutiny.

The second factor is that in a market-oriented energy economy, the level of Canadian gas requirements will vary depending in part upon the gas price. If there were influences operating in the Canadian gas market to keep gas prices higher to Canadians than to export customers (net of delivery), the level of Canadian gas consumption (i.e. "requirements") could be lower and that of export volumes higher than they would be if prices were non-discriminatory. These influences could arise from at least three sources: non-arm's length transactions between Canadian exporters and U.S. importers, a large share of the domestic market being under the control of very few marketers, and the power of producing provinces to regulate the terms and conditions of gas removal from their provinces. While the Board cannot cure such potential difficulties in the functioning of natural gas markets, it can assess whether proposed exports are surplus to reasonably foreseeable Canadian requirements on the terms proposed and whether such exports are in the best interests of Canada.

The third factor is that in any international trade environment, foreign governments' energy policy and regulation are beyond Canada's control and these could affect Canadian export volumes or prices in ways that may influence whether Canadian requirements will be adequately and fairly met. In these circumstances, individual participants in the marketplace may not have the kind of collective response capability which a national institution has, and which it may be necessary to use in order to serve the public interest.

The fourth factor is that the ability to import gas is limited.

The Board concludes that it is appropriate to adopt surplus determination procedures

which do not unduly interfere with the market when it is working to serve Canadian needs adequately and fairly, but which will provide for intervention by the Board whenever it finds that additional exports might cause the market to have difficulty in meeting reasonably foreseeable Canadian requirements.

In its Decision on this matter, the Board implemented a procedure for assessing gas export licence applications, known as the Market-Based Procedure, which consists of a public hearing component and a monitoring component.¹ The public hearing component consists of a Complaints Procedure, an Export Impact Assessment, and an assessment of any Other Public Interest Considerations.

The Complaints Procedure is "based on the principle that gas should not be authorized for export if Canadian users have not had an opportunity to buy gas for their needs on terms and conditions similar to those of the proposed export". Thus, the Complaints Procedure is a mechanism which helps the Board determine that the Canadian market is adequately supplied and that the proposed export is surplus to reasonably foreseeable Canadian requirements.

The purpose of the impact assessment is "to allow the Board to determine whether a proposed export is likely to cause Canadians difficulty in meeting their energy requirements at fair market prices". The impact assessment primarily addresses the question of whether large increases in exports could negatively impact on Canadian energy consumers because of a potential inability of the natural gas market to adjust quickly to large changes in supply and demand conditions.²

Finally, the Board indicated that it would have regard to any "Other Public Interest Considerations" which "it considers relevant in determining whether proposed exports are in the national public interest".

Electricity

With respect to electricity, in 1990 Parliament enacted legislative changes to the *Act* which require the Board to assess permit applications through a procedure similar to the Complaints Procedure for natural gas export licence applications. Electricity exports are normally authorized by permit without a public hearing and without requiring authorization by the Governor in Council. A public hearing is held only if an application to export is so designated by the Governor in Council on the advice of the Board. In determining whether to advise the Governor in Council to designate an application for public hearing, the *Act* states (section 119.06(2)) that the Board "shall have regard to all considerations that appear to it to be relevant", including

(c) whether the applicant has

¹ See National Energy Board Reasons for Decision in the matter of Review of Natural Gas Surplus Determination Procedures, July 1987.

² These concerns are arguably not relevant to the issue of export regulation of production from the oil sands. The oil market generally has demonstrated considerable flexibility in recent years in responding to quite substantial changes in supply and demand conditions.

- (i) informed those who have declared an interest in buying electricity for consumption in Canada of the quantities and classes of service available for sale, and
- (ii) given an opportunity to purchase electricity on terms and conditions as favourable as the terms and conditions specified in the application to those who, within a reasonable time after being so informed, demonstrate an intention to buy electricity for consumption in Canada.

The process described in paragraph (c) is referred to as providing fair market access.

Both of the regulatory regimes for gas exports and for electricity exports rely to a large degree on the concept that the market will normally operate to satisfy the needs of Canadians at fair market prices. At the same time, the procedures provide the Board with a mechanism to intervene if it is found that Canadian users do not have access to these energy commodities on terms and conditions similar to those offered to export customers. In addition, the Market-Based Procedure explicitly contains provisions for the Board to consider any Other Public Interest Considerations prior to granting an export licence.

Under the Market-Based Procedure, the onus rests with the applicant to demonstrate to the satisfaction of the Board that an export licence should be granted. Under the fair market access process, the onus rests with an objector/complainant to demonstrate that a permit should not be granted.

National Energy Board



Office national de l'énergie

File No.: 7200-A004-1-2
22 October 1993

FOR FACSIMILE AND MAIL

Mr. Rowland J. Harrison
Stikeman, Elliot
Barristers and Solicitors
1500 Bankers Hall
855 Second Street S.W.
Calgary, Alberta
T2P 4J7



Dear Mr. Harrison:

**Re: Application by Alberta and Southern Gas Co. Ltd. ("A&S") et al
 for, *inter alia*, Rescission of NEB Orders MO-2-92 and TG-5-92**

I refer to the applications filed on 30 August 1993, jointly and severally, by A&S, Pacific Gas Transmission Company, Pacific Gas and Electric Company and Alberta Natural Gas Company Ltd ("ANG") for an order pursuant to section 12 and subsection 21(1) of the *National Energy Board Act* ("the Act") terminating Order MO-2-92 and pursuant to sections 12 and 59 and subsection 21(1) of *the Act* terminating Order TG-5-92 and for assurance that the Board will not give leave under subsection 69(2) of *the Act* for the prosecution under subsection 69(1) of *the Act* of any shipper on the pipeline systems of ANG or Westcoast Energy Inc. ("Westcoast") whereby, pursuant to assignments or subshipper agreements, parties obtain transportation at a toll less than that named in the tariff then in force.

As part of its written hearing on the applications, the Board sought the views of the interested parties to GH-R-1-91. The Canadian Association of Petroleum Producers ("CAPP") stated in its submission that it was supportive of the rescission of the orders provided that the Joint Applicants could meet certain conditions. The Board notes that the Joint Applicants have provided evidence to satisfy the CAPP conditions.

The Board received several other submissions which were supportive of the applications including those from the Alberta Petroleum Marketing Commission and the Ministry of Energy, Mines and Petroleum Resources (MEMPR) on behalf of the Province of British Columbia.

Two B.C. industrial users requested the Board to impose conditions in any order that it might issue, to ensure that they and all other parties in a similar position would have a fair opportunity to properly assess their situation, evaluate the terms and conditions of service, including the financial and other associated issues, and to reach an informed decision with respect to the basis upon which they should nominate for firm capacity directly or indirectly on the ANG system. BC Gas and MEMPR supported this request. The Board has considered this request and has decided not to impose any conditions regarding the assignment of capacity on ANG. Any assignments will be made in accordance with ANG's Board-approved tariff and any issues regarding these tariff matters would be dealt with under Part IV of *the Act*.

In its submission, Foothills Pipe Lines Ltd. indicated that the Board should grant the relief sought by the Joint Applicants under subsection 69(2) of *the Act* for a limited period of time. The Board was not persuaded that it was necessary to limit the applicability of the relief sought. As well, the Board did not see the need to condition the relief, as suggested by Westcoast, to provide Westcoast with the same financial assurances given to ANG and NOVA regarding capacity that continues to be held by A&S or assigned to PGT after the effective date of the Decontracting Agreements.

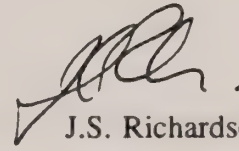
The Board is satisfied that the expression of support for the Decontracting Plan by the affected parties demonstrates that fair and equitable contractual arrangements between A&S and its producers have been negotiated. The Board is also satisfied that all regulatory approvals necessary for the implementation of the Decontracting Plan will be in place by the effective date of the rescission orders.

The Board has therefore decided the following:

1. To issue Order RO-MO-2-92 rescinding Order MO-2-92 effective 1 November 1993;
2. To issue Order RO-TG-5-92 rescinding Order TG-5-92 effective 1 November 1993; and
3. To hereby provide assurance, effective 1 November 1993, that the Board will not give leave under subsection 69(2) of *the Act* for the prosecution under subsection 69(1) of *the Act* of any shipper on the pipeline systems of ANG or Westcoast whereby, pursuant to assignments or subshipper agreements, parties obtain transportation at a toll less than that named in the tariff then in force, provided that ANG and Westcoast receive payment of the full NEB-approved tolls for the service rendered and provided that the charges under the assignments or subshipper agreements are no greater than the NEB-approved tolls for that service.

Copies of Orders RO-MO-2-92 and RO-TG-5-92 are attached.

Yours truly,



J.S. Richardson
Secretary

c.c. Interested Parties GH-R-1-91



ORDER RO-MO-2-92

IN THE MATTER OF the National Energy Board Act ("the Act") and the regulations made thereunder; and

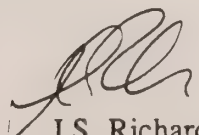
IN THE MATTER OF an application by Alberta and Southern Gas Co. Ltd. ("A&S"), Pacific Gas Transmission Company ("PGT") and Pacific Gas and Electric Company ("PG&E") dated 30 August 1993 for an order under section 12 and subsection 21(1) of the Act, to rescind Order MO-2-92; filed with the Board under file No. 7200-A004-1-2.

BEFORE the Board on 21 October 1993.

WHEREAS the Board has considered the A&S/PGT/PG&E application and the evidence and arguments of interested parties and has found that it is in the public interest to rescind Order MO-2-92.

IT IS ORDERED, under subsection 21(1) of the Act, that Order MO-2-92 is hereby rescinded effective 1 November 1993.

NATIONAL ENERGY BOARD



J.S. Richardson
Secretary



ORDER RO-TG-5-92

IN THE MATTER OF the *National Energy Board Act* ("the Act") and the regulations made thereunder; and

IN THE MATTER OF an application by Alberta and Southern Gas Co. Ltd. ("A&S"), Pacific Gas Transmission Company ("PGT"), Pacific Gas and Electric Company ("PG&E") and Alberta Natural Gas Company Ltd ("ANG") dated 30 August 1993 for an order under sections 12 and 59 and under subsection 21(1) of the Act, to rescind Order TG-5-92; filed with the Board under file No. 7200-A004-1-2.

BEFORE the Board on 21 October 1993.

WHEREAS the Board has considered the A&S/PGT/PG&E/ANG application and the evidence and arguments of interested parties and has found that it is in the public interest to rescind Order TG-5-92.

IT IS ORDERED, under subsection 21(1) of the Act, that Order TG-5-92 is hereby rescinded effective 1 November 1993.

NATIONAL ENERGY BOARD

A handwritten signature in dark ink, appearing to read "J.S. Richardson".

J.S. Richardson
Secretary

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National Energy Board



Office national de l'énergie

File: 6500-A000-1

25 October 1993

**TO: PARTIES INCLUDED ON THE BOARD'S ELECTRICAL MATTERS LIST AND
GENERAL MAILING LIST**

**Re: Amendments to the 22 June 1990 National Energy Board Electricity Regulations
Request for Submissions**

Bill C-23, an Act to amend the *National Energy Board Act*, was assented to and became law on 25 March 1990, and subsequently came into force on 1 June 1990. As a result of provisions in the amended Act regarding electricity exports and international power lines, the Board proposed new regulations, which were presented in a 22 June 1990 Memorandum of Guidance (1990 MOG).

Since the issuance of the 1990 MOG, the Board has processed a number of electricity export and international power line applications. Based on the Board's experience in processing these applications, the Board, in an MOG issued on 7 July 1993, further revised the processing procedures outlined in the 1990 MOG, to better reflect the intent of the amended Act and make the procedures more responsive to changing market conditions.

The 7 July 1993 process revisions addressed 'General Public Notice Requirements' and the resultant procedures applicable to the processing of applications. While the processing of applications was modified, the information requirements for processing applications respecting electricity exports and international power lines were not.

The Board has now examined its existing draft Electricity Regulations and Environmental Guidelines and has revised them. A copy of the proposed draft Electricity Regulations and Environmental Guidelines is attached to this letter.

Consultation Process

The Board is conducting this consultation process in order to seek input from parties who may have an interest in electrical export and international power line applications that come before the Board.

Parties wishing to comment on the attached draft Electricity Regulations and Environmental Guidelines are requested to do so by 30 November 1993.

General

Parties are asked to quote File No. 6500-A000-1 when corresponding with the Board on this matter. Comments filed with the Board by interested parties, will be available for public viewing, during normal business hours, in the Board's library located on the ground floor at:

311-Sixth Avenue S.W.
Calgary, Alberta
T2P 3H2

Correspondence to the Board should be addressed to:

The Secretary
National Energy Board
311-Sixth Avenue S.W.
Calgary, Alberta
T2P 3H2

Telephone: (403) 292-4800
Facsimile: (403) 292-5503

For further information concerning this matter, please contact Alex Karas at (403) 299-3165.



J.S. Richardson
Secretary

Attachments

PROPOSED DRAFT REGULATIONS FOR CARRYING INTO EFFECT THE PROVISIONS OF THE NATIONAL ENERGY BOARD ACT RESPECTING INTERNATIONAL POWER LINES AND ELECTRICITY EXPORTS

Short Title

1. These Regulations may be cited as the Electricity Regulations.

Interpretation

2. In these Regulations,

"Act" means the *National Energy Board Act*; (*Loi*)

"adjustment transfer" means a power or energy transfer to adjust energy account balances or to compensate for services rendered; (*transfert en vue d'une correction*)

"border accommodation transfer" means a power or energy transfer for purposes of providing electricity:

a) to a person in a foreign country who lacks ready access to service from an electric utility of that country; or

b) to an international work; or

c) to a person in a foreign country who experiences an interruption in service from electric utilities in that foreign country; (*transfert en vue de service frontalier*)

"carrier transfer" means a transfer of power or energy wheeled from one electrical utility through circuits of another electrical utility that acts as a carrier for delivery to a third party or to the originating utility; (*transfert relatif au transport*)

"circulating power flow" means an unscheduled flow of electricity that occurs whenever loop circuits are formed by multiple transmission lines; (*débit de puissance en circuit bouclé*)

"energy" means electricity, expressed in units of watt hours or decimal multiples or sub-multiples of watt hours; (*énergie*)

"equichange transfer" means an interchange of equal quantities of power or energy within a stated period; (*transfert d'équivalents*)

"firm energy" means energy intended to be available at all specified times during a period covered by an agreement respecting the sale thereof; (*énergie garantie*)

"firm power" means power or power-production capacity intended to be available at all specified times during a period covered by an agreement respecting the sale thereof; (*puissance garantie*)

"interruptible energy" means energy made available under an agreement that permits curtailment, interruption or cessation of delivery at the option of the supplier; (*énergie interruptible*)

"interruptible power" means power made available under an agreement that permits curtailment, interruption or cessation of availability at the option of the supplier; (*puissance interruptible*)

"notice" means a notice of the application published by the applicant in accordance with section 58.12 of Part III.1 of the Act or section 119.04 of Division II of Part VI of the Act; (*avis*)

"power" means the rate of transferring energy, expressed in units of watts or decimal multiples or sub-multiples of watts; (*puissance*)

"power line outside Canada" means the power line outside Canada that at the crossover point is connected to the international power line; (*ligne de transport d'électricité à l'extérieur du Canada*)

"power transfer capability" means the amount of power that can be transferred from one power system to another while meeting reliability criteria for the interconnected systems; (*capacité de transfert de puissance*)

"sale transfer" means a transfer of power and energy under a contract of sale; (*transfert en vue de la vente*)

"storage transfer" means an energy transfer banked for the time being in the form of water in a reservoir space of another electrical utility, in the expectation that equivalent energy will be returned at a later time; (*transfert en vue de l'emmagasinement*)

"voltage" means the electrical force or potential that causes a current to flow in a circuit. (*tension électrique*)

PART I

Information to be Furnished by Applicants for Authorization to Construct and Operate International Power Lines

International Power Lines of Less than 50 kV

3. Every application for an authorization to construct and operate an international power line for the purpose of transmitting electricity from or to a place in Canada to or from a place outside Canada, not exceeding an operating voltage of fifty kilovolts, shall include the following information, unless the Board determines, on request of the applicant, that such information is not necessary to dispose of the application:

- (a) the name, address, telephone number and other telecommunication numbers of the applicant, or of the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;
- (b) the name and address of the owner and of the operator of the international power line, if the owner or operator is different from the applicant;
- (c) a copy of the notice of the application published in:
 - (i) the Canada Gazette, pursuant to the Act, and
 - (ii) any other publications, as directed by the Board;
- (d) a description of any early public notification process implemented by the applicant;
- (e) a map, at a scale sufficient to locate and identify all relevant features, showing:
 - (i) all terminal points, the route, the international boundary crossover point, and the distance in kilometres from the international boundary crossover point to each terminal point of the international power line,
 - (ii) the cities, towns, villages, park boundaries, rivers, major roads, railways and navigable waters through, under or across which the line is to pass, and
 - (iii) the power line outside Canada;
- (f) a technical land description from which the international boundary crossover point can be accurately determined on the ground;

- (g) the name and address of the owner and the operator of the power line outside Canada;
- (h) a brief engineering description of the proposed line, setting forth the following:
 - (i) voltage level,
 - (ii) the number and size of conductors,
 - (iii) the maximum power transfer capability, and
 - (iv) a single line diagram identifying all the facilities that constitute the international power line;
- (i) a copy of the agreement, if any, between the applicant and the owner or the operator of the power line outside Canada dealing with the construction and operation of the international power line and the power line outside Canada;
- (j) (i) a statement that the power line should be excluded from an environmental assessment because there are no environmental effects, including any directly related social effects, or
 - (ii) a description of the potential environmental effects, including any directly related social effects, of the line, and the proposed measures to mitigate those effects.
- (k) a description of the approvals that have been obtained or are expected to be obtained from all of the provinces or territories through which the international power line will pass; and
- (l) a description of any approval process required for the construction and operation of the power line outside Canada and a statement setting forth the current status of any such approvals.

International Power Lines Greater than 50 kV

4. Every application for an authorization to construct and operate an international power line for the purpose of transmitting electricity from or to a place in Canada to or from a place outside Canada, exceeding an operating voltage of fifty kilovolts, shall include the following information, unless the Board determines, on request of the applicant, that such information is not necessary to dispose of the application:

- (a) the name, address, telephone number and other telecommunication numbers of the applicant, or of the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;
- (b) a description of the applicant, including:
 - (i) a description of the applicant's power system, and
 - (ii) a copy of the applicant's most recent annual report;
- (c) the name and address of the owner and of the operator of the international power line;
- (d) a copy of the notice of the application, published in:
 - (i) the Canada Gazette pursuant to the Act, and
 - (ii) any other publications, as directed by the Board;
- (e) a description of any early public notification process implemented by the applicant;
- (f) a map, at a scale sufficient to locate and identify all relevant features, showing:
 - (i) all right-of-way corridors which were considered for the purpose of determining the route of the international power line,
 - (ii) the location of the power line within each corridor,
 - (iii) all terminal points and the international boundary crossover point,
 - (iv) the distance in kilometres from the international boundary crossover point to each terminal point,
 - (v) provinces, territories, cities, towns, villages, park boundaries, rivers, major roads, railways and navigable waters through, under or across which the line is to pass, and
 - (vi) the power line outside Canada;
- (g) a technical land description from which the international boundary crossover point can be accurately determined on the ground;

(h) the name and address of the owner and the operator of the power line outside Canada;

(i) a copy of any publicly available annual report of the owner and the operator of the power line outside Canada;

(j) a brief engineering description of the proposed line, setting forth the following:

- (i) the voltage level,
- (ii) the number and size of conductors,
- (iii) the type of supporting structures,
- (iv) a single-line diagram identifying all the facilities that constitute the international power line,
- (v) the design capability for sustained transmission of power under winter and summer conditions, and
- (vi) the criteria that underlie the stated capabilities;

(k) the total export and import power transfer capabilities between the applicant's power system and the power systems to which it will be interconnected by the proposed international power line, with and without the proposed line, stating the criteria that underlie the stated capabilities;

(l) a copy of:

- (i) each interconnection or transaction agreement relating to the construction of the international power line, and
- (ii) any other agreement between the applicant and the owner or the operator of the power line outside Canada, dealing with the construction and operation of the international power line and the power line outside Canada;

(m) a description of the provincial or territorial regulatory requirements and associated review procedures which must be satisfied, including:

- (i) a description of any review process applicable to each approval that has been obtained or is expected to be obtained,
- (ii) a description of any public consultation process provided for under each review process described in (i),

- (iii) a schedule for each review process described in (i);
- (n) a description of the approvals that have been obtained or are expected to be obtained:
 - (i) from all the provinces and territories in Canada through which the international power line will pass, and
 - (ii) for the construction and operation of the power line outside Canada, a statement setting forth the current status of any such approvals;
- (o) a schedule showing the projected dates for:
 - (i) each approval and authorization respecting the international power line, including terminal facilities, and
 - (ii) the start and completion of construction of the international power line and the power line outside Canada;
- (p) an assessment, which may consist in whole or in part of reports prepared for other regulatory authorities, of the potential environmental effects, including any directly related social effects, of the international power line and a statement of the proposed measures to mitigate any identified effects of the line and its terminal facilities;
- (q) unless otherwise detailed in the reports prepared for other regulatory authorities submitted pursuant to 4(p), the applicant shall provide:
 - (i) a map showing the proposed right-of-way and covering a width of at least one kilometre on each side of the power line, of a scale sufficient to clearly portray the existing environment, including the surface geology, the habitats of wildlife of recognized importance, rare and endangered plant species, spawning beds, public recreational areas, parks, historic and archeological sites, conservation areas, Indian reserves, existing land use, and a written description of the environmental components shown on the map,
 - (ii) the width of right-of-way proposed, and the reasons why that width was selected,
 - (iii) a description of the potential effects that the construction and operation of the line, including any associated temporary or permanent roads, may have on land use, flora, fauna and humans and the mitigative measures that would be implemented to minimize those effects,

- (iv) the plans for surface restoration after construction, and for the disposal of construction and excavation debris and wastes,
- (v) the levels of radio and television interference expected at the edge of the right-of-way under fair and foul weather conditions at maximum line loading and the measures that will be used to minimize the potential interference,
- (vi) for transmission voltages above 240 kV, the levels of noise, ozone concentration, electric field gradient, and magnetic field strength expected at the edge of the right-of-way, at maximum line loading, and the measures to be taken to protect people, livestock or wildlife from electric shock on contacting vehicles or metallic structures,
- (vii) the potential for long-term adverse effects on human or animal health from the electric and magnetic fields, and the measures that will be used to minimize any potential adverse effects, and
- (viii) for any substation facilities forming part of the international power line, the audible noise in decibels that would be caused by the operation of those facilities, a description of the public exposure to such noise and any mitigative measures that will be taken to minimize the noise;
- (r) a description of any effects on reliability that operation of the proposed international power line at the power transfer capabilities stated in 4(j) might have outside the province or territory in which the line originates and the measures proposed to mitigate or minimize those effects;
- (s) a description of:
 - (i) any safety standards, practices and procedures to be used in the design, construction and operation of the international power line, including the date of issue of any documents respecting those matters, and
 - (ii) any other applicable safety measures.

Terms and Conditions of Permits for International Power Lines

5. Where, pursuant to section 58.11 of the Act, the Board issues a permit authorizing the construction and operation of an international power line, the Board may attach to the permit terms and conditions respecting the following matters:

- (a) changes in either the ownership of the facilities or the persons authorized to operate the facilities;

- (b) the general location of the facilities;
- (c) the specific location of the crossover point;
- (d) the electrical and physical characteristics, including the power transfer capabilities, of the facilities;
- (e) practices, and procedures related to the protection and restoration of the environment affected by the facilities;
- (f) requirements respecting monitoring of the construction, operation, and environmental and directly related social effects of the facilities;
- (g) requirements respecting approval by the Board of any change that may be made to the facilities;
- (h) requirements relating to the mitigation of potential reliability effects which may result from the operation of the proposed facilities, and
- (i) requirements that any person who provides facilities to accommodate the export of power and energy from Canada by other persons shall not provide such facilities without first obtaining from that person a copy of an export permit, issued by the Board, for the export of that power and energy.

Elections

6. The election that an applicant for or holder of a permit or certificate may file with the Board pursuant to section 58.23 of the Act shall be in the form set out in the schedule attached to the Regulations.

PART II

Information to be Furnished by Applicants for Authorization to Export Electricity

Border Accommodation Transfer

7. Every application for an authorization for a border accommodation transfer shall include the following information, unless the Board determines, on request of the applicant, that such information is not necessary to dispose of the application:

- (a) the name, address, telephone number and other telecommunication numbers of the applicant, or the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;

- (b) a copy of the notice of the application published in the Canada Gazette, pursuant to the Act;
- (c) a statement setting forth:
 - (i) the period for which the authorization is sought,
 - (ii) the estimated maximum firm and/or interruptible power export for each year in the period for which the authorization is sought, and
 - (iii) the estimated maximum monthly and annual quantities of firm and/or interruptible energy exports for each year in the period for which the authorization is sought;
- (d) a copy of the electricity sale contract covering the proposed exportation of electricity;
- (e) in cases in which the application is not related to a specific export contract, a copy of each interconnection or exchange agreement covering the contractual arrangements under which the proposed exportation would take place;
- (f) a brief description of the international power line over which the applicant proposes to export electricity, setting forth
 - (i) the number of the certificate or permit issued by the Board,
 - (ii) the name of the holder of the certificate or permit,
 - (iii) the name of the owner and operator of the power line outside Canada, and
 - (iv) the voltage level of the international power line;
- (g) a description of any provincial approvals that have been obtained or are expected to be obtained; and
- (h) the name, address, and brief description of each person or agency to be supplied outside Canada together with a statement of the power to be supplied to each;
- (i) a description of the approvals required for the importation of electricity into the foreign country, including the current status of any approvals sought in the foreign country.

Exports Other than Border Accommodations
Applications

8. Applications for all other authorizations to export electricity shall include the following information, unless the Board determines, on request of the applicant, that such information is not necessary to dispose of the application:

- (a) the name, address, telephone number and other telecommunication numbers of the applicant, or of the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;
- (b) a brief description of the applicant, including a description of the applicant's power system, a copy of the applicant's latest annual report, and the applicant's most recent publicly available generation or development plan;
- (c) a copy of the notice of the application published in:
 - (i) the Canada Gazette, pursuant to the Act, and
 - (ii) any other publications, as directed by the Board;
- (d) in the case of an export sale transfer, a statement setting forth:
 - (i) the period for which the authorization is sought,
 - (ii) the estimated maximum firm-power export for each year,
 - (iii) the estimated maximum combined firm and interruptible power exports for each year,
 - (iv) the estimated maximum monthly and annual quantities of firm energy exports for each year,
 - (v) the estimated maximum annual quantities of interruptible energy exports for each year, and
 - (vi) information respecting any import sale transfers corresponding to the information requested in subparagraphs (ii) to (v);
- (e) for an equichange, storage, adjustment or carrier transfer, a statement of the annual quantities of energy for exportation and for importation for each type of transfer for the period for which the authorization is sought;

(f) in any case where the applicant proposes to make short term firm and interruptible exports pursuant to an interconnection or an exchange agreement and the terms and conditions of the proposed exports are not known at the time of the application, a statement setting forth:

(i) the estimated maximum duration of specific exports under those agreements,

(ii) the rationale used to support (i),

(iii) the period for which authorization is sought, and

(iv) the basis for the period selected;

(g) a copy of each bulk electricity sale agreement covering the proposed exportation of electricity;

(h) in any case in which the application is not related to a specific export contract, a copy of each interconnection or exchange agreement covering the contractual arrangements under which the proposed exportation would take place;

(i) a list of the international power lines over which the applicant proposes to export or import electricity, setting forth in respect of each line:

(i) the number of the certificate or permit issued by the Board,

(ii) the name of the holder of the certificate or permit,

(iii) the name of the owner of the power line outside Canada,

(iv) the voltage level and operating designation of each circuit,

(v) the maximum power transfer capability of each circuit giving the basis for this limit, and

(vi) the total simultaneous power transfer capability under normal operating conditions for all the international power lines listed in accordance with this paragraph and the basis for that limit;

(j) the name, address, and a brief description of each person or agency outside Canada to be supplied and a statement of the power to be supplied to each person or agency;

(k) a description of all approvals required for the importation of electricity into the foreign country, and the current status of all approvals which have been requested

by the applicant or any other person;

(l) a description of all provincial or territorial approvals that must be obtained by the applicant, and the current status of all approvals requested from the provinces or territories;

(m) a description of the review process applicable to each provincial or territorial approval that has been obtained, or is expected to be obtained, including:

(i) details regarding any public consultation provided for under each review process, and

(ii) a schedule for each review process;

(n) the potential environmental effects, including any directly related social effects, resulting from the sending of the electricity for export, and the measures to be used to mitigate any of the potential environmental effects;

(o) a description of any potential effects that the proposed exportation might have on the reliability of any electric utility system in neighbouring provinces or territories;

(p) for any application where the terms and conditions of the proposed export have been specified, the application shall include a description detailing the manner in which:

(i) those persons who, having declared an interest in buying electricity for consumption in Canada, have been informed by the applicant of the quantities and classes of service available for sale, and

(ii) those persons who, having demonstrated an intention to buy electricity for consumption in Canada within a reasonable time after being so informed, have been given an opportunity by the applicant to purchase electricity on terms and conditions, including price, as favourable as the terms and conditions specified in the application; or

(q) for any application where the terms and conditions of the proposed export are not specified, the application shall include a description, including supporting documentation, illustrating the manner in which:

(i) those persons who declare an interest in buying electricity for consumption in Canada will be informed by the applicant of the quantities and classes available for sale, and

(ii) those persons who demonstrate an intention to buy electricity for

consumption in Canada within a reasonable time after being so informed will be given an opportunity by the applicant to purchase electricity on terms and conditions, including price, as favourable as the terms and conditions of the export.

Terms and Conditions of Permits for the Export of Electricity

9. Every permit for the export of electricity shall state the quantities of power and energy in terms of kilowatts and kilowatt hours, or multiples thereof, that may be exported thereunder, the quantities, if any, that may be imported as an offset to the export, and the maximum quantities for any daily, monthly, annual or other appropriate period with respect to both exports and imports.

10. Where, pursuant to section 119.09 of the Act, the Board proposes to attach terms and conditions to a permit authorizing the exportation of electricity, the Board may attach to the permit terms and conditions respecting the following matters:

- (a) the duration of the permit;
- (b) the maximum quantities of power and energy authorized;
- (c) the classes of power and energy transfers authorized;
- (d) requirements relating to the maximum duration of export contracts;
- (e) requirements relating to the filing and prior approval by the Board of contracts for the export of electricity from Canada which are entered into pursuant to a permit;
- (f) the firmness or interruptibility of each class of transfer;
- (g) conditions under which the permit holder must curtail or interrupt the export;
- (h) the international power lines over which transfers are authorized;
- (i) requirements relating to the measurement of power and energy for the purposes of the permit;
- (j) any changes in circumstances about which the permit holder is required to inform the Board;
- (k) requirements relating to the filing and prior approval by the Board of any amendments that may be made to an agreement for the export of electricity from Canada;

- (l) requirements relating to the protection and restoration of the environment;
- (m) requirements relating to the mitigation of reliability effects of the export;
- (n) requirements relating to the opportunities for Canadians to purchase the electricity proposed to be exported from Canada; and
- (o) requirements that any person who provides facilities to accommodate the export of power and energy from Canada by other persons shall not provide such facilities without first obtaining from that person a copy of an export permit, issued by the Board, for the export of that power and energy.

PART III

Units of Measurement

11. (1) For the purposes of these Regulations, power and energy shall be measured in accordance with the *Electricity and Gas Inspection Act*.

(2) For the purpose of these Regulations,

(a) a unit of

(i) power shall be 1 watt or any decimal multiple or sub-multiple thereof, and

(ii) energy shall be 1 watt hour or any decimal multiple or sub-multiple thereof

where the multiples or sub-multiples are those accepted for use in the International System of Units (SI);

(b) 1 watt hour shall be the energy produced from a power source of 1 watt during a period of 3 600 seconds; and

(c) 1 watt and 1 second have the same meanings as in Schedule I to the *Weights and Measures Act*.

Inspection

12. (1) A member of the Board or any person authorized by the Board in writing for the purpose may, in connection with any licence or permit issued under Division II of Part VI of the Act or for any other reason relating to the administration or enforcement of the Act or these Regulations, at any reasonable time:

(a) enter any premises for the purpose of inspecting any plant, equipment, instruments or devices used for or in connection with the measurement of electricity for exportation from Canada and make such reasonable tests thereon as he deems necessary, or

(b) inspect any books, records or accounts used for or in connection with the exportation of electricity.

(2) A person authorized by the Board to exercise any of the powers referred to in subsection (1) shall, upon demand made to him at any time while he is exercising any such powers, produce his written authority from the Board in such behalf.

(3) Any person who is the operator or who is in charge of any of the places, equipment, or records mentioned in subsection (1) shall permit or assist any member of the Board or any person authorized by the Board in the exercise of the powers conferred by subsection (1).

GUIDELINES ON THE ENVIRONMENTAL INFORMATION REQUIRED WITH APPLICATIONS FOR AUTHORIZATIONS FOR INTERNATIONAL POWER LINES

1. General Requirement

When an election is filed by an applicant or by a holder of a permit or certificate pursuant to Section 58.23 of the Act, the applicant or the holder of a permit or certificate is required to furnish an assessment of the probable environmental effects of the power line. Although the details of such an assessment should be commensurate with the magnitude and complexity of the expected effects, this guideline describes the type of information that should be provided.

2. Application for Exemption

Applicants for authorization for lines of a voltage not exceeding 50 kV should provide:

- a) a statement that the power line should be excluded from an environmental assessment because there are no environmental effects, including any directly related social effects, or
- b) a description of the potential environmental effects, including any directly related social effects, of the line, and the proposed measures to mitigate those effects.

3. Submission of Studies and Other Applications

With the environmental assessment, the applicant should submit copies of:

- a) any studies that have been made on the environmental effects of the proposed line or any part thereof, and
- b) any applications to and decisions by public bodies relating to the line.

4. Description of the Environment

The applicant should provide:

- a) a map or maps of scale at least 1:50 000, based on either maps of the National Topographic System or on aerial photographs, showing the proposed right-of-way and a width of at least one kilometre on each side of the power line, to portray the following:
 - i. the surface and near surface geology,
 - ii. soil types, classified in the Canadian system,
 - iii. any recognized geological or hydrological hazards (such as landslides, mudflows, floods, earthquakes, etc.),
 - iv. the habitats of terrestrial wildlife, wetland furbearers and waterfowl, of recognized importance,

- v. the habitats of rare or endangered plant species,
- vi. the spawning beds of fish species of recognized importance,
- vii. the locations of public recreational areas,
- viii. special areas such as national and historic parks, provincial parks, historic and archaeological sites, ecological reserves, conservation areas, Indian reserves, etc.,
- ix. existing land use,
- x. water supply intakes,
- xi. existing and proposed transmission towers and other power facilities, and
- xii. any proposed construction roads and camps, and

b) a description of the environmental components listed in subsection (a).

5. Environmental Standards

The applicant should state what environmental standards, specifications or guidelines, if any, would be followed in the planning, design, construction and operation of the line.

6. Potential Environmental Effects and Mitigative Measures

The application should include a statement of:

- a) what width of right-of-way is proposed, and why this width was selected;
- b) the potential environmental effects, including any directly related social effects of construction and operation of the line and of any associated temporary or permanent roads on:
 - i. land drainage and erosion,
 - ii. vegetation,
 - iii. wildlife, especially rare or endangered species,
 - iv. fish spawning and productivity,
 - v. agriculture, recreation and other human activities,
 - vi. water supplies,
 - vii. land values,
 - viii. scenic, historic, residential and recreational areas, and
 - ix. present or approved future land use,

showing in each case what mitigative measures would be used to minimize those potential effects;

- c) what mitigative measures would be implemented to minimize the visual effects of the right-of-way, to improve the appearance of the line, to screen it from highways and other areas of public view;

- d) what measures would be implemented for surface restoration after construction, and for the disposal of construction excavation debris and wastes;
- e) what pesticides or herbicides would be used in the construction and maintenance of the right-of-way, including:
 - i. quantities,
 - ii. methods of application,
 - iii. potential environmental effects, and
 - iv. measures to be implemented to mitigate any potential effects;
- f) what supervision and inspection of environmental effects and protection would be provided:
 - i. during construction, and
 - ii. during subsequent operation;
- g) what mitigative measures would be implemented to minimize radio and television interference, and what levels would be expected in decibels above one microvolt per metre at the edge of the right-of-way under fair and foul weather conditions;
- h) for transmission voltage above 240 kV, what are the levels of:
 - i. audible noise in decibels, and
 - ii. ozone concentration in parts per billion that would be expected at ground level at the edge of the right-of-way under fair and foul weather conditions;
- i) for transmission voltages above 240 kV, what values of electric field gradient in kilovolts per metre would be expected at mid-span:
 - i. directly under the outermost conductor, and
 - ii. at the edge of the right-of-way

and what measures, if any, would be taken to protect people, livestock, or wildlife contacting vehicles or metallic structures under the line from electric shock resulting from induced voltages;
- j) for any substation facilities forming part of the international power line, the audible noise in decibels that would be caused at the property line, a description of the public exposure to such noise, and the mitigative measures that would be implemented to minimize the noise, and;
- k) the potential for adverse effects on human health of the electric and magnetic fields

produced by the proposed transmission line and the mitigative measures that would be implemented to minimize those effects.

7. Alternatives

The applicant should state what consideration was given to alternatives such as:

- i. different routes,
- ii. replacing or upgrading existing lines, or
- iii. multiple-use right-of-way with other utilities,
and why such alternatives were rejected.

National Energy Board



Office national de l'énergie

File: 6500-A000-1

25 October 1993

**TO: PARTIES INCLUDED ON THE BOARD'S ELECTRICAL MATTERS LIST AND
GENERAL MAILING LIST**

**Re: Amendments to the 22 June 1990 National Energy Board Electricity Regulations
Request for Submissions**

Bill C-23, an Act to amend the *National Energy Board Act*, was assented to and became law on 25 March 1990, and subsequently came into force on 1 June 1990. As a result of provisions in the amended Act regarding electricity exports and international power lines, the Board proposed new regulations, which were presented in a 22 June 1990 Memorandum of Guidance (1990 MOG).

Since the issuance of the 1990 MOG, the Board has processed a number of electricity export and international power line applications. Based on the Board's experience in processing these applications, the Board, in an MOG issued on 7 July 1993, further revised the processing procedures outlined in the 1990 MOG, to better reflect the intent of the amended Act and make the procedures more responsive to changing market conditions.

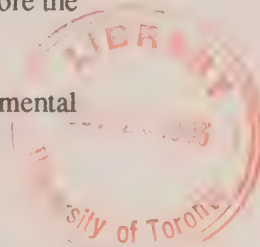
The 7 July 1993 process revisions addressed 'General Public Notice Requirements' and the resultant procedures applicable to the processing of applications. While the processing of applications was modified, the information requirements for processing applications respecting electricity exports and international power lines were not.

The Board has now examined its existing draft Electricity Regulations and Environmental Guidelines and has revised them. A copy of the proposed draft Electricity Regulations and Environmental Guidelines is attached to this letter.

Consultation Process

The Board is conducting this consultation process in order to seek input from parties who may have an interest in electrical export and international power line applications that come before the Board.

Parties wishing to comment on the attached draft Electricity Regulations and Environmental Guidelines are requested to do so by 30 November 1993.



General

Parties are asked to quote File No. 6500-A000-1 when corresponding with the Board on this matter. Comments filed with the Board by interested parties, will be available for public viewing, during normal business hours, in the Board's library located on the ground floor at:

311-Sixth Avenue S.W.
Calgary, Alberta
T2P 3H2

Correspondence to the Board should be addressed to:

The Secretary
National Energy Board
311-Sixth Avenue S.W.
Calgary, Alberta
T2P 3H2

Telephone: (403) 292-4800
Facsimile: (403) 292-5503

For further information concerning this matter, please contact Alex Karas at (403) 299-3165.



J.S. Richardson
Secretary

Attachments

PROPOSED DRAFT REGULATIONS FOR CARRYING INTO EFFECT THE PROVISIONS OF THE NATIONAL ENERGY BOARD ACT RESPECTING INTERNATIONAL POWER LINES AND ELECTRICITY EXPORTS

Short Title

1. These Regulations may be cited as the Electricity Regulations.

Interpretation

2. In these Regulations,

"Act" means the *National Energy Board Act*; (*Loi*)

"adjustment transfer" means a power or energy transfer to adjust energy account balances or to compensate for services rendered; (*transfert en vue d'une correction*)

"border accommodation transfer" means a power or energy transfer for purposes of providing electricity:

a) to a person in a foreign country who lacks ready access to service from an electric utility of that country; or

b) to an international work; or

c) to a person in a foreign country who experiences an interruption in service from electric utilities in that foreign country; (*transfert en vue de service frontalier*)

"carrier transfer" means a transfer of power or energy wheeled from one electrical utility through circuits of another electrical utility that acts as a carrier for delivery to a third party or to the originating utility; (*transfert relatif au transport*)

"circulating power flow" means an unscheduled flow of electricity that occurs whenever loop circuits are formed by multiple transmission lines; (*débit de puissance en circuit bouclé*)

"energy" means electricity, expressed in units of watt hours or decimal multiples or sub-multiples of watt hours; (*énergie*)

"equichange transfer" means an interchange of equal quantities of power or energy within a stated period; (*transfert d'équivalents*)

"firm energy" means energy intended to be available at all specified times during a period covered by an agreement respecting the sale thereof; (*énergie garantie*)

- "firm power" means power or power-production capacity intended to be available at all specified times during a period covered by an agreement respecting the sale thereof; (*puissance garantie*)
- "interruptible energy" means energy made available under an agreement that permits curtailment, interruption or cessation of delivery at the option of the supplier; (*énergie interruptible*)
- "interruptible power" means power made available under an agreement that permits curtailment, interruption or cessation of availability at the option of the supplier; (*puissance interruptible*)
- "notice" means a notice of the application published by the applicant in accordance with section 58.12 of Part III.1 of the Act or section 119.04 of Division II of Part VI of the Act; (*avis*)
- "power" means the rate of transferring energy, expressed in units of watts or decimal multiples or sub-multiples of watts; (*puissance*)
- "power line outside Canada" means the power line outside Canada that at the crossover point is connected to the international power line; (*ligne de transport d'électricité à l'extérieur du Canada*)
- "power transfer capability" means the amount of power that can be transferred from one power system to another while meeting reliability criteria for the interconnected systems; (*capacité de transfert de puissance*)
- "sale transfer" means a transfer of power and energy under a contract of sale; (*transfert en vue de la vente*)
- "storage transfer" means an energy transfer banked for the time being in the form of water in a reservoir space of another electrical utility, in the expectation that equivalent energy will be returned at a later time; (*transfert en vue de l'emmagasinement*)
- "voltage" means the electrical force or potential that causes a current to flow in a circuit. (*tension électrique*)

PART I

Information to be Furnished by Applicants for Authorization to Construct and Operate International Power Lines

International Power Lines of Less than 50 kV

3. Every application for an authorization to construct and operate an international power line for the purpose of transmitting electricity from or to a place in Canada to or from a place outside Canada, not exceeding an operating voltage of fifty kilovolts, shall include the following information, unless the Board determines, on request of the applicant, that such information is not necessary to dispose of the application:

- (a) the name, address, telephone number and other telecommunication numbers of the applicant, or of the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;
- (b) the name and address of the owner and of the operator of the international power line, if the owner or operator is different from the applicant;
- (c) a copy of the notice of the application published in:
 - (i) the Canada Gazette, pursuant to the Act, and
 - (ii) any other publications, as directed by the Board;
- (d) a description of any early public notification process implemented by the applicant;
- (e) a map, at a scale sufficient to locate and identify all relevant features, showing:
 - (i) all terminal points, the route, the international boundary crossover point, and the distance in kilometres from the international boundary crossover point to each terminal point of the international power line,
 - (ii) the cities, towns, villages, park boundaries, rivers, major roads, railways and navigable waters through, under or across which the line is to pass, and
 - (iii) the power line outside Canada;
- (f) a technical land description from which the international boundary crossover point can be accurately determined on the ground;

(g) the name and address of the owner and the operator of the power line outside Canada;

(h) a brief engineering description of the proposed line, setting forth the following:

(i) voltage level,

(ii) the number and size of conductors,

(iii) the maximum power transfer capability, and

(iv) a single line diagram identifying all the facilities that constitute the international power line;

(i) a copy of the agreement, if any, between the applicant and the owner or the operator of the power line outside Canada dealing with the construction and operation of the international power line and the power line outside Canada;

(j) (i) a statement that the power line should be excluded from an environmental assessment because there are no environmental effects, including any directly related social effects, or

(ii) a description of the potential environmental effects, including any directly related social effects, of the line, and the proposed measures to mitigate those effects.

(k) a description of the approvals that have been obtained or are expected to be obtained from all of the provinces or territories through which the international power line will pass; and

(l) a description of any approval process required for the construction and operation of the power line outside Canada and a statement setting forth the current status of any such approvals.

International Power Lines Greater than 50 kV

4. Every application for an authorization to construct and operate an international power line for the purpose of transmitting electricity from or to a place in Canada to or from a place outside Canada, exceeding an operating voltage of fifty kilovolts, shall include the following information, unless the Board determines, on request of the applicant, that such information is not necessary to dispose of the application:

- (a) the name, address, telephone number and other telecommunication numbers of the applicant, or of the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;
- (b) a description of the applicant, including:
 - (i) a description of the applicant's power system, and
 - (ii) a copy of the applicant's most recent annual report;
- (c) the name and address of the owner and of the operator of the international power line;
- (d) a copy of the notice of the application, published in:
 - (i) the Canada Gazette pursuant to the Act, and
 - (ii) any other publications, as directed by the Board;
- (e) a description of any early public notification process implemented by the applicant;
- (f) a map, at a scale sufficient to locate and identify all relevant features, showing:
 - (i) all right-of-way corridors which were considered for the purpose of determining the route of the international power line,
 - (ii) the location of the power line within each corridor,
 - (iii) all terminal points and the international boundary crossover point,
 - (iv) the distance in kilometres from the international boundary crossover point to each terminal point,
 - (v) provinces, territories, cities, towns, villages, park boundaries, rivers, major roads, railways and navigable waters through, under or across which the line is to pass, and
 - (vi) the power line outside Canada;
- (g) a technical land description from which the international boundary crossover point can be accurately determined on the ground;

(h) the name and address of the owner and the operator of the power line outside Canada;

(i) a copy of any publicly available annual report of the owner and the operator of the power line outside Canada;

(j) a brief engineering description of the proposed line, setting forth the following:

(i) the voltage level,

(ii) the number and size of conductors,

(iii) the type of supporting structures,

(iv) a single-line diagram identifying all the facilities that constitute the international power line,

(v) the design capability for sustained transmission of power under winter and summer conditions, and

(vi) the criteria that underlie the stated capabilities;

(k) the total export and import power transfer capabilities between the applicant's power system and the power systems to which it will be interconnected by the proposed international power line, with and without the proposed line, stating the criteria that underlie the stated capabilities;

(l) a copy of:

(i) each interconnection or transaction agreement relating to the construction of the international power line, and

(ii) any other agreement between the applicant and the owner or the operator of the power line outside Canada, dealing with the construction and operation of the international power line and the power line outside Canada;

(m) a description of the provincial or territorial regulatory requirements and associated review procedures which must be satisfied, including:

(i) a description of any review process applicable to each approval that has been obtained or is expected to be obtained,

(ii) a description of any public consultation process provided for under each review process described in (i),

- (iii) a schedule for each review process described in (i);
- (n) a description of the approvals that have been obtained or are expected to be obtained:
 - (i) from all the provinces and territories in Canada through which the international power line will pass, and
 - (ii) for the construction and operation of the power line outside Canada, a statement setting forth the current status of any such approvals;
- (o) a schedule showing the projected dates for:
 - (i) each approval and authorization respecting the international power line, including terminal facilities, and
 - (ii) the start and completion of construction of the international power line and the power line outside Canada;
- (p) an assessment, which may consist in whole or in part of reports prepared for other regulatory authorities, of the potential environmental effects, including any directly related social effects, of the international power line and a statement of the proposed measures to mitigate any identified effects of the line and its terminal facilities;
- (q) unless otherwise detailed in the reports prepared for other regulatory authorities submitted pursuant to 4(p), the applicant shall provide:
 - (i) a map showing the proposed right-of-way and covering a width of at least one kilometre on each side of the power line, of a scale sufficient to clearly portray the existing environment, including the surface geology, the habitats of wildlife of recognized importance, rare and endangered plant species, spawning beds, public recreational areas, parks, historic and archeological sites, conservation areas, Indian reserves, existing land use, and a written description of the environmental components shown on the map,
 - (ii) the width of right-of-way proposed, and the reasons why that width was selected,
 - (iii) a description of the potential effects that the construction and operation of the line, including any associated temporary or permanent roads, may have on land use, flora, fauna and humans and the mitigative measures that would be implemented to minimize those effects,

- (iv) the plans for surface restoration after construction, and for the disposal of construction and excavation debris and wastes,
- (v) the levels of radio and television interference expected at the edge of the right-of-way under fair and foul weather conditions at maximum line loading and the measures that will be used to minimize the potential interference,
- (vi) for transmission voltages above 240 kV, the levels of noise, ozone concentration, electric field gradient, and magnetic field strength expected at the edge of the right-of-way, at maximum line loading, and the measures to be taken to protect people, livestock or wildlife from electric shock on contacting vehicles or metallic structures,
- (vii) the potential for long-term adverse effects on human or animal health from the electric and magnetic fields, and the measures that will be used to minimize any potential adverse effects, and
- (viii) for any substation facilities forming part of the international power line, the audible noise in decibels that would be caused by the operation of those facilities, a description of the public exposure to such noise and any mitigative measures that will be taken to minimize the noise;
- (r) a description of any effects on reliability that operation of the proposed international power line at the power transfer capabilities stated in 4(j) might have outside the province or territory in which the line originates and the measures proposed to mitigate or minimize those effects;
- (s) a description of:
 - (i) any safety standards, practices and procedures to be used in the design, construction and operation of the international power line, including the date of issue of any documents respecting those matters, and
 - (ii) any other applicable safety measures.

Terms and Conditions of Permits for International Power Lines

5. Where, pursuant to section 58.11 of the Act, the Board issues a permit authorizing the construction and operation of an international power line, the Board may attach to the permit terms and conditions respecting the following matters:

- (a) changes in either the ownership of the facilities or the persons authorized to operate the facilities;

- (b) the general location of the facilities;
- (c) the specific location of the crossover point;
- (d) the electrical and physical characteristics, including the power transfer capabilities, of the facilities;
- (e) practices, and procedures related to the protection and restoration of the environment affected by the facilities;
- (f) requirements respecting monitoring of the construction, operation, and environmental and directly related social effects of the facilities;
- (g) requirements respecting approval by the Board of any change that may be made to the facilities;
- (h) requirements relating to the mitigation of potential reliability effects which may result from the operation of the proposed facilities, and
- (i) requirements that any person who provides facilities to accommodate the export of power and energy from Canada by other persons shall not provide such facilities without first obtaining from that person a copy of an export permit, issued by the Board, for the export of that power and energy.

Elections

6. The election that an applicant for or holder of a permit or certificate may file with the Board pursuant to section 58.23 of the Act shall be in the form set out in the schedule attached to the Regulations.

PART II

Information to be Furnished by Applicants for Authorization to Export Electricity

Border Accommodation Transfer

7. Every application for an authorization for a border accommodation transfer shall include the following information, unless the Board determines, on request of the applicant, that such information is not necessary to dispose of the application:

- (a) the name, address, telephone number and other telecommunication numbers of the applicant, or the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;

- (b) a copy of the notice of the application published in the Canada Gazette, pursuant to the Act;
- (c) a statement setting forth:
 - (i) the period for which the authorization is sought,
 - (ii) the estimated maximum firm and/or interruptible power export for each year in the period for which the authorization is sought, and
 - (iii) the estimated maximum monthly and annual quantities of firm and/or interruptible energy exports for each year in the period for which the authorization is sought;
- (d) a copy of the electricity sale contract covering the proposed exportation of electricity;
- (e) in cases in which the application is not related to a specific export contract, a copy of each interconnection or exchange agreement covering the contractual arrangements under which the proposed exportation would take place;
- (f) a brief description of the international power line over which the applicant proposes to export electricity, setting forth
 - (i) the number of the certificate or permit issued by the Board,
 - (ii) the name of the holder of the certificate or permit,
 - (iii) the name of the owner and operator of the power line outside Canada, and
 - (iv) the voltage level of the international power line;
- (g) a description of any provincial approvals that have been obtained or are expected to be obtained; and
- (h) the name, address, and brief description of each person or agency to be supplied outside Canada together with a statement of the power to be supplied to each;
- (i) a description of the approvals required for the importation of electricity into the foreign country, including the current status of any approvals sought in the foreign country.

Exports Other than Border Accommodations
Applications

8. Applications for all other authorizations to export electricity shall include the following information, unless the Board determines, on request of the applicant, that such information is not necessary to dispose of the application:

- (a) the name, address, telephone number and other telecommunication numbers of the applicant, or of the authorized representative of the applicant, to whom communications may be sent and upon whom documents may be served;
- (b) a brief description of the applicant, including a description of the applicant's power system, a copy of the applicant's latest annual report, and the applicant's most recent publicly available generation or development plan;
- (c) a copy of the notice of the application published in:
 - (i) the Canada Gazette, pursuant to the Act, and
 - (ii) any other publications, as directed by the Board;
- (d) in the case of an export sale transfer, a statement setting forth:
 - (i) the period for which the authorization is sought,
 - (ii) the estimated maximum firm-power export for each year,
 - (iii) the estimated maximum combined firm and interruptible power exports for each year,
 - (iv) the estimated maximum monthly and annual quantities of firm energy exports for each year,
 - (v) the estimated maximum annual quantities of interruptible energy exports for each year, and
 - (vi) information respecting any import sale transfers corresponding to the information requested in subparagraphs (ii) to (v);
- (e) for an equichange, storage, adjustment or carrier transfer, a statement of the annual quantities of energy for exportation and for importation for each type of transfer for the period for which the authorization is sought;

(f) in any case where the applicant proposes to make short term firm and interruptible exports pursuant to an interconnection or an exchange agreement and the terms and conditions of the proposed exports are not known at the time of the application, a statement setting forth:

- (i) the estimated maximum duration of specific exports under those agreements,
- (ii) the rationale used to support (i),
- (iii) the period for which authorization is sought, and
- (iv) the basis for the period selected;

(g) a copy of each bulk electricity sale agreement covering the proposed exportation of electricity;

(h) in any case in which the application is not related to a specific export contract, a copy of each interconnection or exchange agreement covering the contractual arrangements under which the proposed exportation would take place;

(i) a list of the international power lines over which the applicant proposes to export or import electricity, setting forth in respect of each line:

- (i) the number of the certificate or permit issued by the Board,
- (ii) the name of the holder of the certificate or permit,
- (iii) the name of the owner of the power line outside Canada,
- (iv) the voltage level and operating designation of each circuit,
- (v) the maximum power transfer capability of each circuit giving the basis for this limit, and
- (vi) the total simultaneous power transfer capability under normal operating conditions for all the international power lines listed in accordance with this paragraph and the basis for that limit;

(j) the name, address, and a brief description of each person or agency outside Canada to be supplied and a statement of the power to be supplied to each person or agency;

(k) a description of all approvals required for the importation of electricity into the foreign country, and the current status of all approvals which have been requested

by the applicant or any other person;

(l) a description of all provincial or territorial approvals that must be obtained by the applicant, and the current status of all approvals requested from the provinces or territories;

(m) a description of the review process applicable to each provincial or territorial approval that has been obtained, or is expected to be obtained, including:

(i) details regarding any public consultation provided for under each review process, and

(ii) a schedule for each review process;

(n) the potential environmental effects, including any directly related social effects, resulting from the sending of the electricity for export, and the measures to be used to mitigate any of the potential environmental effects;

(o) a description of any potential effects that the proposed exportation might have on the reliability of any electric utility system in neighbouring provinces or territories;

(p) for any application where the terms and conditions of the proposed export have been specified, the application shall include a description detailing the manner in which:

(i) those persons who, having declared an interest in buying electricity for consumption in Canada, have been informed by the applicant of the quantities and classes of service available for sale, and

(ii) those persons who, having demonstrated an intention to buy electricity for consumption in Canada within a reasonable time after being so informed, have been given an opportunity by the applicant to purchase electricity on terms and conditions, including price, as favourable as the terms and conditions specified in the application; or

(q) for any application where the terms and conditions of the proposed export are not specified, the application shall include a description, including supporting documentation, illustrating the manner in which:

(i) those persons who declare an interest in buying electricity for consumption in Canada will be informed by the applicant of the quantities and classes available for sale, and

(ii) those persons who demonstrate an intention to buy electricity for

consumption in Canada within a reasonable time after being so informed will be given an opportunity by the applicant to purchase electricity on terms and conditions, including price, as favourable as the terms and conditions of the export.

Terms and Conditions of Permits for the Export of Electricity

9. Every permit for the export of electricity shall state the quantities of power and energy in terms of kilowatts and kilowatt hours, or multiples thereof, that may be exported thereunder, the quantities, if any, that may be imported as an offset to the export, and the maximum quantities for any daily, monthly, annual or other appropriate period with respect to both exports and imports.

10. Where, pursuant to section 119.09 of the Act, the Board proposes to attach terms and conditions to a permit authorizing the exportation of electricity, the Board may attach to the permit terms and conditions respecting the following matters:

- (a) the duration of the permit;
- (b) the maximum quantities of power and energy authorized;
- (c) the classes of power and energy transfers authorized;
- (d) requirements relating to the maximum duration of export contracts;
- (e) requirements relating to the filing and prior approval by the Board of contracts for the export of electricity from Canada which are entered into pursuant to a permit;
- (f) the firmness or interruptibility of each class of transfer;
- (g) conditions under which the permit holder must curtail or interrupt the export;
- (h) the international power lines over which transfers are authorized;
- (i) requirements relating to the measurement of power and energy for the purposes of the permit;
- (j) any changes in circumstances about which the permit holder is required to inform the Board;
- (k) requirements relating to the filing and prior approval by the Board of any amendments that may be made to an agreement for the export of electricity from Canada;

(l) requirements relating to the protection and restoration of the environment;

(m) requirements relating to the mitigation of reliability effects of the export;

(n) requirements relating to the opportunities for Canadians to purchase the electricity proposed to be exported from Canada; and

(o) requirements that any person who provides facilities to accommodate the export of power and energy from Canada by other persons shall not provide such facilities without first obtaining from that person a copy of an export permit, issued by the Board, for the export of that power and energy.

PART III

Units of Measurement

11. (1) For the purposes of these Regulations, power and energy shall be measured in accordance with the *Electricity and Gas Inspection Act*.

(2) For the purpose of these Regulations,

(a) a unit of

(i) power shall be 1 watt or any decimal multiple or sub-multiple thereof, and

(ii) energy shall be 1 watt hour or any decimal multiple or sub-multiple thereof

where the multiples or sub-multiples are those accepted for use in the International System of Units (SI);

(b) 1 watt hour shall be the energy produced from a power source of 1 watt during a period of 3 600 seconds; and

(c) 1 watt and 1 second have the same meanings as in Schedule I to the *Weights and Measures Act*.

Inspection

12. (1) A member of the Board or any person authorized by the Board in writing for the purpose may, in connection with any licence or permit issued under Division II of Part VI of the Act or for any other reason relating to the administration or enforcement of the Act or these Regulations, at any reasonable time:

(a) enter any premises for the purpose of inspecting any plant, equipment, instruments or devices used for or in connection with the measurement of electricity for exportation from Canada and make such reasonable tests thereon as he deems necessary, or

(b) inspect any books, records or accounts used for or in connection with the exportation of electricity.

(2) A person authorized by the Board to exercise any of the powers referred to in subsection (1) shall, upon demand made to him at any time while he is exercising any such powers, produce his written authority from the Board in such behalf.

(3) Any person who is the operator or who is in charge of any of the places, equipment, or records mentioned in subsection (1) shall permit or assist any member of the Board or any person authorized by the Board in the exercise of the powers conferred by subsection (1).

GUIDELINES ON THE ENVIRONMENTAL INFORMATION REQUIRED WITH APPLICATIONS FOR AUTHORIZATIONS FOR INTERNATIONAL POWER LINES

1. General Requirement

When an election is filed by an applicant or by a holder of a permit or certificate pursuant to Section 58.23 of the Act, the applicant or the holder of a permit or certificate is required to furnish an assessment of the probable environmental effects of the power line. Although the details of such an assessment should be commensurate with the magnitude and complexity of the expected effects, this guideline describes the type of information that should be provided.

2. Application for Exemption

Applicants for authorization for lines of a voltage not exceeding 50 kV should provide:

- a) a statement that the power line should be excluded from an environmental assessment because there are no environmental effects, including any directly related social effects, or
- b) a description of the potential environmental effects, including any directly related social effects, of the line, and the proposed measures to mitigate those effects.

3. Submission of Studies and Other Applications

With the environmental assessment, the applicant should submit copies of:

- a) any studies that have been made on the environmental effects of the proposed line or any part thereof, and
- b) any applications to and decisions by public bodies relating to the line.

4. Description of the Environment

The applicant should provide:

- a) a map or maps of scale at least 1:50 000, based on either maps of the National Topographic System or on aerial photographs, showing the proposed right-of-way and a width of at least one kilometre on each side of the power line, to portray the following:
 - i. the surface and near surface geology,
 - ii. soil types, classified in the Canadian system,
 - iii. any recognized geological or hydrological hazards (such as landslides, mudflows, floods, earthquakes, etc.),
 - iv. the habitats of terrestrial wildlife, wetland furbearers and waterfowl, of recognized importance,

- v. the habitats of rare or endangered plant species,
- vi. the spawning beds of fish species of recognized importance,
- vii. the locations of public recreational areas,
- viii. special areas such as national and historic parks, provincial parks, historic and archaeological sites, ecological reserves, conservation areas, Indian reserves, etc.,
- ix. existing land use,
- x. water supply intakes,
- xi. existing and proposed transmission towers and other power facilities, and
- xii. any proposed construction roads and camps, and

b) a description of the environmental components listed in subsection (a).

5. Environmental Standards

The applicant should state what environmental standards, specifications or guidelines, if any, would be followed in the planning, design, construction and operation of the line.

6. Potential Environmental Effects and Mitigative Measures

The application should include a statement of:

- a) what width of right-of-way is proposed, and why this width was selected;
- b) the potential environmental effects, including any directly related social effects of construction and operation of the line and of any associated temporary or permanent roads on:
 - i. land drainage and erosion,
 - ii. vegetation,
 - iii. wildlife, especially rare or endangered species,
 - iv. fish spawning and productivity,
 - v. agriculture, recreation and other human activities,
 - vi. water supplies,
 - vii. land values,
 - viii. scenic, historic, residential and recreational areas, and
 - ix. present or approved future land use,

showing in each case what mitigative measures would be used to minimize those potential effects;

- c) what mitigative measures would be implemented to minimize the visual effects of the right-of-way, to improve the appearance of the line, to screen it from highways and other areas of public view;

- d) what measures would be implemented for surface restoration after construction, and for the disposal of construction excavation debris and wastes;
- e) what pesticides or herbicides would be used in the construction and maintenance of the right-of-way, including:
 - i. quantities,
 - ii. methods of application,
 - iii. potential environmental effects, and
 - iv. measures to be implemented to mitigate any potential effects;
- f) what supervision and inspection of environmental effects and protection would be provided:
 - i. during construction, and
 - ii. during subsequent operation;
- g) what mitigative measures would be implemented to minimize radio and television interference, and what levels would be expected in decibels above one microvolt per metre at the edge of the right-of-way under fair and foul weather conditions;
- h) for transmission voltage above 240 kV, what are the levels of:
 - i. audible noise in decibels, and
 - ii. ozone concentration in parts per billion that would be expected at ground level at the edge of the right-of-way under fair and foul weather conditions;
- i) for transmission voltages above 240 kV, what values of electric field gradient in kilovolts per metre would be expected at mid-span:
 - i. directly under the outermost conductor, and
 - ii. at the edge of the right-of-way

and what measures, if any, would be taken to protect people, livestock, or wildlife contacting vehicles or metallic structures under the line from electric shock resulting from induced voltages;
- j) for any substation facilities forming part of the international power line, the audible noise in decibels that would be caused at the property line, a description of the public exposure to such noise, and the mitigative measures that would be implemented to minimize the noise, and;
- k) the potential for adverse effects on human health of the electric and magnetic fields

produced by the proposed transmission line and the mitigative measures that would be implemented to minimize those effects.

7. Alternatives

The applicant should state what consideration was given to alternatives such as:

- i. different routes,
- ii. replacing or upgrading existing lines, or
- iii. multiple-use right-of-way with other utilities,
and why such alternatives were rejected.

National Energy Board



Office national de l'énergie

File: 7500-A000-4
8 December 1993

To: Interested Parties

Re: Changes to the Export Impact Assessment (EIA) Component of the Market-Based Procedure for the Licensing of Natural Gas Exports

In the Board's letter to interested parties, dated 26 August 1993, the following changes were proposed to the EIA process:

- 1) Beginning with the supply/demand report to be issued in mid-1994 (*Canadian Energy Supply and Demand 1993-2010*) the Board will include in those reports an analysis of the long-term implications of alternative export levels for Canadian energy markets.
- 2) The long-term assessment of volume and price effects in the supply/demand reports will be supplemented by an assessment of market adjustment issues undertaken in periodic Natural Gas Market Assessment (NGMA) reports.

With respect to the second proposal, the Board will release two NGMAs later this month. One report analyses the measures used by gas market participants to deal with problems caused by short periods of very high gas demand in the recent past. The other report is an assessment of the evolution of Canadian gas supply over the past 10 years and the outlook for short-term deliverability.

The Board invited comments by 7 October. Submissions were received from Alberta Natural Gas, "the eastern LDCs" (a joint submission by Consumers' Gas, Centra Gas, Gaz Métropolitain and Union Gas), Canadian Association of Petroleum Producers, Ontario Ministry of Environment and Energy, Quebec Department of Energy and Resources, Saskatchewan Energy and Mines and Angélique Ellerton. Copies of the submissions may be obtained by contacting the Office of the Secretary. Interested parties should quote file 7500-A000-4.

Submitters were generally supportive of the proposed changes and no one expressed disagreement. Therefore, the Board will implement these changes immediately.

Until additional NGMAs and the next supply/demand report are released, applicants for natural gas export licenses and intervenors wishing to utilize the Board's analyses may refer to either the Board's November 1989 EIA or the September 1992 draft EIA. Of course, interested parties may file their own analyses.



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The Board expresses its appreciation to all parties who have made submissions and otherwise participated in this review of the Export Impact Assessment, including the September 1992 draft EIA, the 1 April 1993 workshop and the Board's letter of 26 August 1993.



for J.S. Richardson
Secretary

